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Bill 88

An Act to enact the Digital Platform Workers' Rights Act, 2022 and to amend various Acts

The Hon. M. McNaughton
Minister of Labour, Training and Skills Development

Government Bill

1st Reading February 28, 2022
2nd Reading March 23, 2022
3rd Reading
Royal Assent

*(Reprinted as amended by the Standing Committee on Social Policy
and as reported to the Legislative Assembly April 4, 2022)*

(The provisions in this Bill will be renumbered after 3rd Reading)



This reprint of the Bill is marked to indicate the changes that were made in Committee.
The changes are indicated by underlines for new text and a ~~striketrough~~ for deleted text.

EXPLANATORY NOTE

SCHEDULE 1 DIGITAL PLATFORM WORKERS' RIGHTS ACT, 2022

The Schedule enacts the *Digital Platform Workers' Rights Act, 2022*. The purpose of the Act is to establish the following rights for workers who perform digital platform work:

The right to information (section 7).

The right to a recurring pay period and pay day (section 8).

The right to minimum wage (section 9).

The right to amounts earned by the worker and to tips and other gratuities (section 10).

The right to notice of removal from an operator's digital platform (section 11).

The right to resolve digital platform work-related disputes in Ontario (section 12).

The right to be free from reprisal (section 13).

Digital platform work is defined to mean the provision of for payment ride share, delivery, courier or other prescribed services by workers who are offered work assignments by an operator through the use of a digital platform.

The rest of the Act sets out rules, processes and requirements with respect to record keeping, director liability, complaints and enforcement, collections, and offences and prosecutions. Miscellaneous provisions are included addressing limitation periods and other matters, and related regulation-making powers are added.

SCHEDULE 2 EMPLOYMENT STANDARDS ACT, 2000

The *Employment Standards Act, 2000* is amended as follows:

1. Section 3 of the Act is amended to provide that the Act does not apply to certain business and information technology consultants.
2. New Part XI.1 of the Act imposes a requirement on employers that employ 25 or more employees to have a written policy with respect to electronic monitoring of employees.
3. Section 50.2 of the Act, which governs reservist leaves of absence, is amended to provide that an employee is entitled to leave under that section if the employee is participating in Canadian Armed Forces military skills training. The section is also amended to provide that an employee is entitled to leave after being employed by the employer for three consecutive months.
4. Related amendments are made to the Act and provision is also made for regulations to be made by the Lieutenant Governor in Council.

SCHEDULE 3 FAIR ACCESS TO REGULATED PROFESSIONS AND COMPULSORY TRADES ACT, 2006

The *Fair Access to Regulated Professions and Compulsory Trades Act, 2006* is amended to establish timelines within which regulated professions must respond to applications for registration from domestic labour mobility applicants unless an exemption is granted from the requirement. Other related amendments are made.

SCHEDULE 4 OCCUPATIONAL HEALTH AND SAFETY ACT

The *Occupational Health and Safety Act* is amended to require employers to provide naloxone kits and comply with related requirements if the employer becomes aware, or ought reasonably to be aware, that there may be a risk of a worker having an opioid overdose at a workplace where that worker performs work for the employer, or where the prescribed circumstances exist.

Various amendments are made to the Act in respect of fines applicable for convictions under the Act. The maximum fine is increased from \$100,000 to \$1,500,000 for directors or officers of corporations and to \$500,000 for other individuals. A list of aggravating factors to be considered in determining a penalty is also added and the limitation period for instituting a prosecution is extended from one year to two years.

**An Act to enact the Digital Platform Workers' Rights Act, 2022
and to amend various Acts**

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Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Contents of this Act

1 This Act consists of this section, sections 2 and 3 and the Schedules to this Act.

Commencement

2 (1) Except as otherwise provided in this section, this Act comes into force on the day it receives Royal Assent.

(2) The Schedules to this Act come into force as provided in each Schedule.

(3) If a Schedule to this Act provides that any provisions are to come into force on a day to be named by proclamation of the Lieutenant Governor, a proclamation may apply to one or more of those provisions, and proclamations may be issued at different times with respect to any of those provisions.

Short title

3 The short title of this Act is the *Working for Workers Act, 2022*.

SCHEDULE 1
DIGITAL PLATFORM WORKERS' RIGHTS ACT, 2022

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INTERPRETATION, APPLICATION, ETC.

Definitions

1 (1) In this Act,

“Board” means the Ontario Labour Relations Board; (“Commission”)

“collector” means a person, other than a compliance officer, who is authorized by the Director to collect an amount owing under this Act; (“agent de recouvrement”)

“digital platform” means, subject to the regulations, an online platform that allows workers to choose to accept or decline digital platform work; (“plateforme numérique”)

“digital platform work” means, subject to the regulations, the provision of for payment ride share, delivery, courier or other prescribed services by workers who are offered work assignments by an operator through the use of a digital platform; (“travail sur plateforme numérique”)

“Director” means the Director of Digital Platform Work; (“directeur”)

“labour relations officer” means a labour relations officer appointed under the *Labour Relations Act, 1995*; (“agent des relations de travail”)

“Minister” means the member of the Executive Council to whom responsibility for the administration of this Act is assigned or transferred under the *Executive Council Act*; (“ministre”)

“Ministry” means the ministry of the Minister; (“ministère”)

“operator” means, subject to the regulations, a person that facilitates, through the use of a digital platform, the performance of digital platform work by workers, but does not include a temporary help agency within the meaning of the *Employment Standards Act, 2000*; (“exploitant”)

“prescribed” means prescribed by the regulations; (“prescrit”)

“regulations” means the regulations made under this Act; (“règlements”)

“tip or other gratuity” means,

- a payment voluntarily made to or left for a worker by a person in such circumstances that a reasonable person would be likely to infer that the person intended or assumed that the payment would be kept by the worker,
- a payment voluntarily made to an operator by a person in such circumstances that a reasonable person would be likely to infer that the person intended or assumed that the payment would be redistributed to a worker,
- a payment of a service charge or similar charge imposed by an operator on a person in such circumstances that a reasonable person would be likely to infer that the person intended or assumed that the payment would be redistributed to a worker,

(d) such other payments as may be prescribed,

but does not include,

(e) such payments as may be prescribed, and

- (f) such charges as may be prescribed relating to the method of payment used, or a prescribed portion of those charges; (“pourboire ou autre gratification”)

“worker” means, subject to the regulations, an individual who performs digital platform work and includes a person who was a worker; (“travailleur”)

“worker right” means a requirement or prohibition under this Act that applies to an operator for the benefit of a worker. (“droit du travailleur”)

Amount owing

(2) For greater certainty, and except as otherwise provided, a reference in this Act to “an amount owing” in respect of a worker includes any tips or other gratuities that are owing.

Purpose

2 The purpose of this Act is to establish certain worker rights for workers, regardless of whether those workers are employees.

Application

3 (1) Subject to subsection (2), the worker rights set out in this Act apply with respect to a worker if,

- (a) the worker’s work assignment is to be performed in Ontario; or
- (b) the worker’s work assignment is to be performed in Ontario and outside Ontario but the work performed outside Ontario is a continuation of the work performed in Ontario.

Exception, federal jurisdiction

(2) This Act does not apply with respect to workers within the legislative jurisdiction of the Parliament of Canada.

Separate persons treated as one operator

4 (1) Subsection (2) applies if associated or related activities or businesses are or were carried on by or through an operator and one or more other persons.

Same

(2) The operator and the other person or persons described in subsection (1) shall all be treated as one operator for the purposes of this Act.

Businesses need not be carried on at same time

(3) Subsection (2) applies even if the activities or businesses are not carried on at the same time.

Exception, individuals

(4) Subsection (2) does not apply with respect to a corporation and an individual who is a shareholder of the corporation unless the individual is a member of a partnership and the shares are held for the purposes of the partnership.

Joint and several liability

(5) Persons who are treated as one operator under this section are jointly and severally liable for any contravention of this Act and the regulations under it and for any amounts owing to a worker by any of them.

No contracting out

5 (1) Subject to subsection (2), no operator and no worker shall contract out of or waive a worker right and any such contracting out or waiver is void.

Greater contractual or statutory right

(2) If one or more provisions in a contract or in another Act that directly relate to the same subject matter as a worker right provide a greater benefit to a worker than the worker right, the provision or provisions in the contract or Act apply and the worker right does not apply.

Civil proceedings not affected

6 Subject to section 27, no civil remedy of a worker against an operator is affected by this Act.

WORKER RIGHTS

Right to information

7 (1) Within 24 hours after an individual is given access to an operator’s digital platform for the purpose of accepting or declining to perform digital platform work, the operator shall provide the following information in writing to the individual:

1. A description of how pay for digital platform work is calculated.
2. Whether tips or other gratuities are collected by the operator and, if so, when and how they are collected.

3. The recurring pay period and recurring pay day established by the operator under section 8.
4. Any factors used to determine whether work assignments are offered to workers and a description of how those factors are applied.
5. Whether the digital platform uses a performance rating system and whether there are consequences based on a worker's performance rating or a worker's failure to perform a work assignment and a description of those consequences.
6. Such other information as may be prescribed.

Same, notice of change

(2) After the information required by subsection (1) is provided to the individual, if there is a change in any of the information, the operator shall inform the individual, in writing, of the change before the change takes effect.

Same

(3) For greater certainty, subsection (2) does not authorize an operator to make a change not otherwise authorized under this Act or any other law.

Same, new work assignment

- (4) An operator shall provide the following information in writing to a worker when offering a work assignment to the worker:
1. The estimated amount the worker will be paid for the work and a description of how that amount was calculated.
 2. Any factors used in determining to offer the work assignment to the worker.
 3. Whether there will be consequences based on the worker's performance rating for the work assignment or the worker's failure to perform the work assignment and, if applicable, a description of those consequences.
 4. Such other information as may be prescribed.

Same, completed work assignment

(5) An operator shall provide the following information in writing to a worker within 24 hours of completion of a work assignment by the worker:

1. The actual amount the worker will be paid for the work, a description of how that amount was calculated and when the amount will be paid.
2. The amount of any tips or other gratuities collected by the operator in respect of the work assignment, the amount of tip or other gratuity that will be paid to the worker and when the amount will be paid.
- ~~3. Whether the worker received a performance rating for the work assignment and, if applicable, the details of the rating, and whether there are any consequences based on the rating and, if applicable, a description of those consequences.~~
4. Such other information as may be prescribed.

Same, performance ratings

(5.1) An operator shall provide information to a worker about performance ratings, as follows:

1. If a worker receives five or more performance ratings for work assignments on a calendar day, the operator shall provide to the worker the average performance rating for that day.
2. If a worker receives fewer than five performance ratings for work assignments on a given calendar day but a total of five or more such ratings over two or more days including that day, the operator shall provide to the worker the average of all the performance ratings received on those days.
3. The operator shall provide, if applicable, the aggregate details of the rating referred to in paragraph 1 or 2, whether there are any consequences based on the rating and a description of those consequences.

Same, provision of performance ratings

(5.2) The information referred to in subsection (5.1) shall be provided within 24 hours after the end of the last day included in the calculation of the average performance rating.

Same, work assignment not completed

(6) If a worker does not complete a work assignment that the worker agreed to perform, the operator shall provide the worker with a written description of the consequences, if any, of the failure to complete the work assignment before the consequences take effect.

Right to recurring pay period and pay day

8 An operator shall establish a recurring pay period and a recurring pay day and shall pay all amounts earned during each pay period and all tips or other gratuities collected by the operator during each pay period no later than the pay day for that period.

Right to minimum wage

9 (1) An operator shall pay workers at least the minimum wage payable under section 23.1 of the *Employment Standards Act, 2000* for the class of employees set out in subparagraph 1 iv of subsection 23.1 (1) of that Act.

Same, determination

(2) For the purposes of determining compliance with subsection (1), the following rules apply:

1. Minimum wage shall be paid for each work assignment performed by a worker.
2. Tips and other gratuities paid in respect of a work assignment shall not be included in determining compliance with subsection (1) for that assignment.
3. Such other rules as may be prescribed apply in determining compliance with subsection (1).

Right to amounts earned and tips and other gratuities

10 (1) An operator shall not withhold amounts earned or tips or other gratuities from a worker, make a deduction from an amount earned by a worker or a worker's tips or other gratuities or cause a worker to return or give the amount earned by the worker or the worker's tips or other gratuities to the operator unless authorized to do so under this section or in such circumstances as may be prescribed.

Same, statute or court order

(2) An operator may withhold or make a deduction from amounts earned by a worker or a worker's tips or other gratuities or cause a worker to return or give them to the operator if a statute of Ontario or Canada or a court order authorizes it.

Exception

(3) Subsection (2) does not apply if the statute or order requires the operator to remit the withheld, deducted, returned or given amounts earned or tips or other gratuities to a third party and the operator fails to do so.

Right to notice of removal

11 (1) No operator shall remove a worker's access to the operator's digital platform unless the operator,

- (a) has provided the worker with a written explanation of why the access to the digital platform was removed; and
- (b) if access is removed for a period of 24 hours or longer, has given the worker two weeks' written notice of the removal.

Exception

(2) Clause (1) (b) does not apply if the worker has been guilty of wilful misconduct or in such other circumstances as may be prescribed.

Rights re dispute resolution

12 All digital platform work-related disputes between an operator and a worker shall be resolved in Ontario.

Rights re reprisal

13 (1) No operator, and no person acting on the operator's behalf, shall intimidate or penalize or attempt or threaten to intimidate or penalize a worker,

- (a) because the worker,
 - (i) asks any person to comply with this Act,
 - (ii) makes inquiries about his or her rights under this Act,
 - (iii) files a complaint with the Ministry under this Act,
 - (iv) exercises or attempts to exercise a right under this Act,
 - (v) gives information to a compliance officer, or
 - (vi) testifies or is required to testify or otherwise participates or is going to participate in a proceeding under this Act;

or
- (b) because the operator is or may be required, because of a court order or garnishment, to pay to a third party an amount owing by the operator to the worker.

Onus of proof

(2) In a proceeding for the contravention of this section other than a proceeding described in subsection (3), the burden of proof that a person did not contravene this section lies on that person.

Exception

(3) Subsection (2) does not apply with respect to the burden of proof in a review under section 48 of a notice of contravention of this section or the burden of proof in a prosecution for a contravention of this section.

RECORD KEEPING

Records

14 (1) An operator shall record the following information with respect to each worker who accesses the operator's digital platform for the purpose of accepting or declining to perform digital platform work:

1. The worker's name and address.
2. Any dates on which the worker was given access to the operator's digital platform for the purpose of performing work.
3. Any dates on which the worker's access to the operator's digital platform was removed or reinstated.
4. The dates on which the worker performed work assignments and the times that each work assignment started and finished.
5. Any amounts paid to the worker in respect of a work assignment, the dates the amounts were paid and a description of the payments, including any tips or other gratuities or other amounts included in the payment.
6. Such other information as may be prescribed.

Retention of records

(2) The operator shall retain or arrange for some other person to retain the records of the information required under this section for three years after the worker's access to the digital platform is terminated.

Availability for inspection

(3) The operator shall ensure that the records required by this section are readily available for inspection as required by a compliance officer, even if the operator has arranged for another person to retain them.

LIABILITY OF DIRECTORS

Definition

15 (1) In this section,

“director” means a director of a corporation and includes a shareholder who is a party to a unanimous shareholder agreement.

Application

(2) This section applies with respect to shareholders described in subsection (1) only to the extent that the directors are relieved, under subsection 108 (5) of the *Business Corporations Act* or subsection 146 (5) of the *Canada Business Corporations Act*, of their liability to pay wages to the employees of the corporation.

Non-application

(3) This section does not apply with respect to directors of corporations to which the *Not-for-Profit Corporations Act, 2010* or the *Co-operative Corporations Act* applies.

Same

(4) This section does not apply with respect to directors, or persons who perform functions similar to those of a director, of a college of a health profession or a group of health professions that is established or continued under an Act of the Legislature.

Same

(5) This section does not apply with respect to directors of corporations,

- (a) that have been incorporated in another jurisdiction;
- (b) that have objects that are similar to the objects of corporations to which the *Not-for-Profit Corporations Act, 2010* applies or to which the *Co-operative Corporations Act* applies; and
- (c) that are carried on without the purpose of gain.

Directors' liability for amounts owing

(6) The directors of an operator are jointly and severally liable for amounts owing to workers as provided in this section if,

- (a) the operator is insolvent, the worker has caused a claim for an amount owing to the worker to be filed with the receiver appointed by a court with respect to the operator or with the operator's trustee in bankruptcy and the claim has not been paid;

- (b) a compliance officer has made an order that the operator is liable for an amount owing to a worker, unless the amount set out in the order has been paid or the operator has applied to have it reviewed;
- (c) a compliance officer has made an order that a director is liable for an amount owing to the worker, unless the amount set out in the order has been paid or the operator or the director has applied to have it reviewed; or
- (d) the Board has issued, amended or affirmed an order under section 45, the order, as issued, amended or affirmed, requires the operator or the directors to pay an amount and the amount set out in the order has not been paid.

Operator primarily responsible

(7) Despite subsection (6), the operator is primarily responsible for an amount owing to a worker but proceedings against the operator under this Act do not have to be exhausted before proceedings may be commenced to collect amounts owing from directors under this section.

No liability for tips or other gratuities or compensation

(8) Directors are not liable under this section for any tips or other gratuities, or compensation ordered under section 34, owing to a worker.

Directors' maximum liability

(9) The directors of an operator corporation are jointly and severally liable to a worker for all debts under this Act and the regulations made under it or under any collective agreement made by the corporation not exceeding the value of six months' earnings for that worker that became payable while they are directors.

Contribution from other directors

(10) A director who has satisfied a claim for an amount owing to a worker is entitled to contribute in relation to the amount owing from other directors who are liable for the claim.

Limitation period

(11) A limitation period set out in section 62 prevails over a limitation period in any other Act, unless the other Act states that it is to prevail over this Act.

No relief by contract, etc.

(12) No provision in a contract, in the articles of incorporation or the by-laws of a corporation or in a resolution of a corporation relieves a director from the duty to act according to this Act or relieves him or her from liability for breach of it.

Indemnification of directors

(13) An operator may indemnify a director, a former director and the heirs or legal representatives of a director or former director against all costs, charges and expenses, including an amount paid to satisfy an order under this Act reasonably incurred by the director with respect to any civil or administrative action or proceeding to which the director is a party by reason of being or having been a director of the operator if,

- (a) the director has acted honestly and in good faith with a view to the best interests of the operator; and
- (b) in the case of a proceeding or action that is enforced by a monetary penalty, the director had reasonable grounds for believing that the director's conduct was lawful.

Civil remedies protected

(14) No civil remedy that a person may have against a director or that a director may have against a person is suspended or affected by this section.

MINISTER RESPONSIBLE AND DIRECTOR OF DIGITAL PLATFORM WORK

Minister responsible

16 (1) The Minister is responsible for the administration of this Act.

Delegation of powers

(2) Where, under this Act or the regulations, any power or duty is granted to or vested in the Minister or the Deputy Minister of the Ministry, the Minister or Deputy Minister may, in writing, delegate that power or duty from time to time to any employee in the Ministry, subject to such limitations, restrictions, conditions and requirements as the Minister or Deputy Minister may set out in the delegation.

Director

17 (1) The Minister shall appoint a person to be the Director of Digital Platform Work to administer this Act and the regulations.

Acting Director

(2) The Director's powers may be exercised and the Director's duties may be performed by an employee of the Ministry appointed as Acting Director if,

- (a) the Director is absent or unable to act; or
- (b) an individual who was appointed Director has ceased to be the Director and no new Director has been appointed.

Same

(3) An Acting Director shall be appointed by the Director or, in the Director's absence, the Deputy Minister.

Policies

(4) The Director may establish policies respecting the interpretation, administration and enforcement of this Act.

Delegation

(5) Where, under this Act or the regulations, any power or duty is granted to or vested in the Director, the Director may, in writing, delegate that power or duty from time to time to any employee in the Ministry, subject to such limitations, restrictions, conditions and requirements as the Director may set out in the delegation.

Hearing not required

(6) The Director is not required to hold a hearing in exercising any power or making any decision under this Act.

Director may reassign an investigation

18 (1) The Director may terminate the assignment of a compliance officer to the investigation of a complaint and may assign the investigation to another compliance officer.

Same

- (2) If the Director terminates the assignment of a compliance officer to the investigation of a complaint,
 - (a) the officer whose assignment is terminated shall no longer have any powers or duties with respect to the investigation of the complaint or the discovery during the investigation of any similar potential entitlement of another worker related to the complaint; and
 - (b) the new compliance officer assigned to the investigation may rely on evidence collected by the first officer and any findings of fact made by that officer.

Inspections

(3) This section applies with necessary modifications to inspections of operators by compliance officers.

COMPLIANCE OFFICERS — DIGITAL PLATFORM WORK**Compliance officers**

19 (1) Such persons as are considered necessary to enforce this Act and the regulations may be appointed under Part III of the *Public Service of Ontario Act, 2006* as compliance officers.

Certificate of appointment

(2) The Deputy Minister of the Ministry shall issue a certificate of appointment bearing the Deputy Minister's signature or a facsimile of it to every compliance officer.

Powers and duties of officers

20 (1) A compliance officer may exercise the powers conferred upon compliance officers under this Act and shall perform the duties imposed upon compliance officers under this Act.

Officers to follow policies

(2) A compliance officer shall follow any policies established by the Director under subsection 17 (4).

Hearing not required

(3) A compliance officer is not required to hold a hearing in exercising any power or making any decision under this Act.

Officers not compellable

21 (1) A compliance officer is not a competent or compellable witness in a civil proceeding respecting any information given or obtained, statements made or received, or records or other things produced or received under this Act except for the purpose of carrying out the officer's duties under this Act.

Same

(2) A compliance officer shall not be compelled in a civil proceeding to produce any record or other thing the officer has made or received under this Act except for the purpose of carrying out the officer's duties under this Act.

Investigation and inspection powers

22 (1) A compliance officer may, without a warrant, enter and inspect any place in order to investigate a possible contravention of this Act or to perform an inspection to ensure that this Act is being complied with.

Time of entry

(2) The power to enter and inspect a place without a warrant may be exercised only during the place's regular business hours or, if it does not have regular business hours, during daylight hours.

Dwellings

(3) The power to enter and inspect a place without a warrant shall not be exercised to enter and inspect a part of the place that is used as a dwelling unless the occupier of the dwelling consents or a warrant has been issued under section 23.

Use of force

(4) A compliance officer is not entitled to use force to enter and inspect a place.

Identification

(5) A compliance officer shall produce, on request, evidence of the officer's appointment.

Powers of officer

(6) A compliance officer conducting an investigation or inspection may,

- (a) examine a record or other thing that the officer thinks may be relevant to the investigation or inspection;
- (b) require the production of a record or other thing that the officer thinks may be relevant to the investigation or inspection;
- (c) remove for review and copying a record or other thing that the officer thinks may be relevant to the investigation or inspection;
- (d) in order to produce a record in readable form, use data storage, information processing or retrieval devices or systems that are normally used in carrying on business in the place; and
- (e) question any person on matters the officer thinks may be relevant to the investigation or inspection.

Written demand

(7) A demand that a record or other thing be produced must be in writing and must include a statement of the nature of the record or thing required.

Obligation to produce and assist

(8) If a compliance officer demands that a record or other thing be produced, the person who has custody of the record or thing shall produce it and, in the case of a record, shall on request provide any assistance that is reasonably necessary to interpret the record or to produce it in a readable form.

Records and things removed from place

(9) A compliance officer who removes a record or other thing under clause (6) (c) shall provide a receipt and return the record or thing to the person within a reasonable time.

Copy admissible in evidence

(10) A copy of a record that purports to be certified by a compliance officer as being a true copy of the original is admissible in evidence to the same extent as the original, and has the same evidentiary value.

Self-audit

(11) In addition to the powers set out in subsection (6), a compliance officer conducting an inspection may, by giving written notice, require an operator to conduct an examination of the operator's records, practices or both in relation to one or more provisions of this Act or the regulations.

Examination and report

(12) If an operator is required to conduct an examination under subsection (11), the operator shall conduct the examination and report the results of the examination to the compliance officer in accordance with the notice.

Notice

(13) A notice given under subsection (11) shall specify,

- (a) the period to be covered by the examination;

- (b) the provision or provisions of this Act or the regulations to be covered by the examination; and
- (c) the date by which the operator must provide a report of the results of the examination to the compliance officer.

Same

- (14) A notice given under subsection (11) may specify,
- (a) the method to be used in carrying out the examination;
 - (b) the format of the report; and
 - (c) such information to be included in the operator's report as the compliance officer considers appropriate.

Same

- (15) Without restricting the generality of clause (14) (c), a notice given under subsection (11) may require the operator to include in the report to the compliance officer,
- (a) an assessment of whether the operator has complied with this Act or the regulations;
 - (b) if, pursuant to clause (a), the operator has included an assessment that the operator has not complied with this Act or the regulations,
 - (i) an assessment of whether one or more workers are owed payments, and
 - (ii) a description of the measures that the operator has taken or will take to ensure that this Act or the regulations will be complied with; and
 - (c) if, pursuant to subclause (b) (i), the operator has included an assessment that one or more workers are owed payments, the name and address of every worker who is owed payments, the amount of payments owed to each worker and an explanation of how the amount owed to each worker was determined.

Obstruction

(16) No person shall hinder, obstruct or interfere with or attempt to hinder, obstruct or interfere with a compliance officer conducting an investigation or inspection.

Same

- (17) No person shall,
- (a) refuse to answer questions on matters that a compliance officer thinks may be relevant to an investigation or inspection; or
 - (b) provide a compliance officer with information on matters the officer thinks may be relevant to an investigation or inspection that the person knows to be false or misleading.

Separate inquiries

(18) No person shall prevent or attempt to prevent a compliance officer from making inquiries of any person separate and apart from another person under clause (6) (e).

Warrant

23 (1) A justice of the peace may issue a warrant authorizing a compliance officer named in the warrant to enter premises specified in the warrant and to exercise any of the powers mentioned in subsection 22 (6), if the justice of the peace is satisfied on information under oath that,

- (a) the officer has been prevented from exercising a right of entry to the premises under subsection 22 (1) or has been prevented from exercising a power under subsection 22 (6);
- (b) there are reasonable grounds to believe that the officer will be prevented from exercising a right of entry to the premises under subsection 22 (1) or will be prevented from exercising a power under subsection 22 (6); or
- (c) there are reasonable grounds to believe that an offence under this Act or the regulations has been or is being committed and that information or other evidence will be obtained through the exercise of a power mentioned in subsection 22 (6).

Expiry of warrant

(2) A warrant issued under this section shall name a date on which it expires, which date shall not be later than 30 days after the warrant is issued.

Extension of time

(3) Upon application without notice by the compliance officer named in a warrant issued under this section, a justice of the peace may extend the date on which the warrant expires for an additional period of no more than 30 days.

Use of force

(4) A compliance officer named in a warrant issued under this section may call upon a police officer for assistance in executing the warrant.

Time of execution

(5) A warrant issued under this section may be executed only between 8 a.m. and 8 p.m., unless the warrant specifies otherwise.

Other matters

(6) Subsections 22 (4) to (18) apply with necessary modifications to an officer executing a warrant issued under this section.

Same

(7) Without restricting the generality of subsection (6), if a warrant is issued under this section, the matters on which an officer executing the warrant may question a person under clause 22 (6) (e) are not limited to those that aid in the effective execution of the warrant but extend to any matters that the officer thinks may be relevant to the investigation or inspection.

Posting of notices

24 A compliance officer may require an operator to post and to keep posted in the manner required by the officer,

- (a) any notice relating to the administration or enforcement of this Act or the regulations that the officer considers appropriate; or
- (b) a copy of a report or part of a report made by the officer concerning the results of an investigation or inspection.

COMPLAINTS AND ENFORCEMENT

Complaints

25 (1) A person alleging that this Act has been or is being contravened may file a complaint with the Ministry in a written or electronic form approved by the Director.

Effect of failure to use form

(2) A complaint that is not filed in a form approved by the Director shall be deemed not to have been filed.

Limitation

(3) A complaint regarding a contravention that occurred more than two years before the day on which the complaint was filed shall be deemed not to have been filed.

When complaint not permitted

26 A worker who commences a civil proceeding with respect to an alleged failure to pay for work performed may not file a complaint with respect to the same matter or have such a complaint investigated.

When civil proceeding not permitted

27 (1) A worker who files a complaint under this Act with respect to an alleged failure to pay for work performed may not commence a civil proceeding with respect to the same matter.

Withdrawal of complaint

(2) Despite subsection (1), a worker who has filed a complaint may commence a civil proceeding with respect to a matter described in that subsection if the worker withdraws the complaint within two weeks after it is filed.

When collective agreement applies

28 (1) If an operator is or has been bound by a collective agreement that applies or applied in respect of the performance of digital platform work, this Act is enforceable against the operator as if it were part of the collective agreement with respect to an alleged contravention of this Act that occurs,

- (a) when the collective agreement is or was in force;
- (b) when its operation is or was continued under subsection 58 (2) of the *Labour Relations Act, 1995*; or
- (c) during the period that the parties to the collective agreement are or were prohibited by subsection 86 (1) of the *Labour Relations Act, 1995* from unilaterally changing the terms and conditions of employment.

Complaint not permitted

(2) A worker who is represented by a trade union that is or was a party to a collective agreement may not file a complaint alleging a contravention of this Act that is enforceable under subsection (1) or have such a complaint investigated.

Worker bound

(3) A worker who is represented by a trade union that is or was a party to a collective agreement is bound by any decision of the trade union with respect to the enforcement of this Act under the collective agreement, including a decision not to seek that enforcement.

Membership status irrelevant

(4) Subsections (2) and (3) apply even if the worker is not a member of the trade union.

Unfair representation

(5) Nothing in subsection (3) or (4) prevents a worker from filing a complaint with the Board alleging that a decision of the trade union with respect to the enforcement of this Act contravenes section 74 of the *Labour Relations Act, 1995*.

Exception

(6) Despite subsection (2), the Director may permit a worker to file a complaint and may direct a compliance officer to investigate it if the Director considers it appropriate in the circumstances.

If arbitrator finds contravention

29 (1) If an arbitrator finds that an operator has contravened this Act, the arbitrator may make any order against the operator that a compliance officer could have made with respect to that contravention but the arbitrator may not issue a notice of contravention.

Directors and collective agreement

(2) An arbitrator shall not require a director to pay an amount, take an action or refrain from taking an action under a collective agreement that the director could not be ordered to pay, take or refrain from taking in the absence of the collective agreement.

Conditions respecting orders under this section

(3) The following conditions apply with respect to an arbitrator's order under this section:

1. In an order requiring payment or compensation, the arbitrator may require that the amount of the payment or compensation be paid,
 - i. to the trade union that represents the worker or workers concerned, or
 - ii. directly to the worker or workers.
2. The order is not subject to review under section 43.

Copy of decision to Director

(4) When an arbitrator makes a decision with respect to an alleged contravention of this Act, the arbitrator shall provide a copy of it to the Director.

Arbitration and s. 4

30 (1) This section applies if, during a proceeding before an arbitrator, other than the Board, concerning an alleged contravention of this Act, an issue is raised concerning whether the operator to whom the collective agreement applies or applied and another person are to be treated as one operator under section 4.

Restriction

(2) The arbitrator shall not decide the question of whether the operator and the other person are to be treated as one operator under section 4.

Reference to the Board

(3) If the arbitrator finds it is necessary to make a finding concerning the application of section 4, the arbitrator shall refer that question to the Board by giving written notice to the Board.

Content of notice

(4) The notice to the Board shall,

- (a) state that an issue has arisen in an arbitration proceeding with respect to whether the operator and another person are to be treated as one operator under section 4; and
- (b) set out the decisions made by the arbitrator on the other matters in dispute.

Decision by Board

(5) The Board shall decide whether the operator and the other person are one operator under section 4, but shall not vary any decision of the arbitrator concerning the other matters in dispute.

Order

(6) Subject to subsection (7), the Board may make an order against the operator and, if it finds that the operator and the other person are one operator under section 4, it may make an order against the other person.

Exception

(7) The Board shall not require the other person to pay an amount or take or refrain from taking an action under a collective agreement that the other person could not be ordered to pay, take or refrain from taking in the absence of the collective agreement.

Application

(8) Section 29 applies, with necessary modifications, with respect to an order under this section.

Meeting may be required

31 (1) A compliance officer may, after giving at least 15 days written notice, require any of the persons referred to in subsection (2) to attend a meeting with the officer in the following circumstances:

1. The officer is investigating a complaint against an operator.
2. The officer, while inspecting a place under section 22 or 23, comes to have reasonable grounds to believe that an operator has contravened this Act or the regulations with respect to a worker.
3. The officer acquires information that suggests to the officer the possibility that an operator may have contravened this Act or the regulations with respect to a worker.

Attendees

(2) Any of the following persons may be required to attend the meeting:

1. The worker.
2. The operator.
3. If the operator is a corporation, a director or an employee of the corporation.

Notice

(3) The notice referred to in subsection (1) shall specify the time and place at which the person is to attend and shall be served on the person in accordance with section 64.

Documents

(4) The compliance officer may require the person to bring to the meeting or make available for the meeting any records or other documents specified in the notice.

Same

(5) The compliance officer may give directions on how to make records or other documents available for the meeting.

Compliance

(6) A person who receives a notice under this section shall comply with it.

Use of technology

(7) The compliance officer may direct that a meeting under this section be held using technology, including but not limited to teleconference and videoconference technology, that allows the persons participating in the meeting to participate concurrently.

Same

(8) If a compliance officer gives directions under subsection (7) respecting a meeting, the officer shall include in the notice referred to in subsection (1) such information additional to that required by subsection (3) as the officer considers appropriate.

Same

(9) Participation in a meeting by means described in subsection (7) is attendance at the meeting for the purposes of this section.

Determination if person fails to attend, etc.

(10) If a person served with a notice under this section fails to attend the meeting or fails to bring or make available any records or other documents as required by the notice, the officer may determine whether an operator has contravened or is contravening this Act on the basis of the following factors:

1. If the operator failed to comply with the notice,
 - i. any evidence or submissions provided by or on behalf of the operator before the meeting, and
 - ii. any evidence or submissions provided by or on behalf of the worker before or during the meeting.

2. If the worker failed to comply with the notice,
 - i. any evidence or submissions provided by or on behalf of the worker before the meeting, and
 - ii. any evidence or submissions provided by or on behalf of the operator before or during the meeting.
3. Any other factors that the officer considers relevant.

Operator includes representative

(11) For the purposes of subsection (10), if the operator is a corporation, a reference to an operator includes a director or employee who was served with a notice requiring the director or employee to attend the meeting or to bring or make available any records or other documents.

Time for response

32 (1) A compliance officer may, in any of the following circumstances and after giving notice, require a worker or an operator to provide evidence or submissions to the officer within the time that the officer specifies in the notice:

1. The officer is investigating a complaint against an operator.
2. The officer, while inspecting a place under section 22 or 23, comes to have reasonable grounds to believe that an operator has contravened this Act or the regulations with respect to a worker.
3. The officer acquires information that suggests to the officer the possibility that an operator may have contravened this Act or the regulations with respect to a worker.

Service of notice

(2) The notice shall be served on the operator or worker in accordance with section 64.

Determination if person fails to respond

(3) If a person served with a notice under this section fails to provide evidence or submissions as required by the notice, the officer may determine whether the operator has contravened or is contravening this Act on the basis of the following factors:

1. Any evidence or submissions provided by or on behalf of the operator or the worker before the notice was served.
2. Any evidence or submissions provided by or on behalf of the operator or the worker in response to and within the time specified in the notice.
3. Any other factors that the officer considers relevant.

Order to pay

33 (1) If a compliance officer finds that an operator owes an amount to a worker, the officer may,

- (a) arrange with the operator that the operator pay the amount owing directly to the worker;
- (b) order the operator to pay the amount owing to the worker; or
- (c) order the operator to pay the amount owing to the Director in trust.

Administrative costs

(2) An order issued under clause (1) (c) shall also require the operator to pay to the Director in trust an amount for administrative costs equal to the greater of \$100 and 10 per cent of the amount owing.

If more than one worker

(3) A single order may be issued with respect to amounts owing to more than one worker.

Contents of order

(4) The order shall contain information setting out the nature of the amount found to be owing to the worker or be accompanied by that information.

Service of order

(5) The order shall be served on the operator in accordance with section 64.

Notice to worker

(6) A compliance officer who issues an order with respect to a worker under this section shall advise the worker of its issuance by serving a letter, in accordance with section 64, on the worker.

Compliance

(7) Every operator against whom an order is issued under this section shall comply with it according to its terms.

Effect of order

(8) If an operator fails to apply under section 43 for a review of an order issued under this section within the time allowed for applying for that review, the order becomes final and binding against the operator.

Same

(9) Subsection (8) applies even if a review hearing is held under this Act to determine another person's liability for the amounts owing that are the subject of the order.

Order for compensation

34 (1) If a compliance officer finds that a person has contravened section 13, the officer may make an order that the worker be compensated for any loss the worker incurred as a result of the contravention or that the worker's access to the digital platform be reinstated, or both.

Terms of order

- (2) If an order made under this section requires a person to compensate a worker, it shall also require the person to,
- (a) pay to the Director in trust,
 - (i) the amount of the compensation, and
 - (ii) an amount for administration costs equal to the greater of \$100 and 10 per cent of the amount of compensation; or
 - (b) pay the amount of the compensation to the worker.

Application of s. 33 (3) to (8)

(3) Subsections 33 (3) to (8) apply, with necessary modifications, with respect to orders issued under this section.

Worker cannot be found

35 (1) If a compliance officer has arranged with an operator or ordered an operator to pay an amount owing under clause 33 (1) (a) or (b) or clause 34 (2) (b) to the worker and the operator is unable to locate the worker despite having made reasonable efforts to do so, the operator shall pay the amount owing to the Director in trust.

Settlements

(2) If a compliance officer has received money for a worker under a settlement but the worker cannot be located, the money shall be paid to the Director in trust.

When money vests in Crown

(3) Money paid to or held by the Director in trust under this section vests in the Crown but may, without interest, be paid out to the worker, the worker's estate or such other person as the Director considers is entitled to it.

Order against director, s. 15

36 (1) If a compliance officer makes an order against an operator for an amount owing to a worker, the officer may make an order to pay an amount owing for which directors are liable under section 15 against some or all of the directors of the operator and may serve a copy of the order in accordance with section 64 on them together with a copy of the order to pay against the operator.

Effect of order

(2) If the directors do not comply with the order or do not apply to have it reviewed, the order becomes final and binding against those directors even if a review hearing is held to determine another person's liability under this Act.

Orders, insolvent operator

(3) If an operator is insolvent and the worker has caused a claim for an amount owing to the worker to be filed with the receiver appointed by a court with respect to the operator or with the operator's trustee in bankruptcy, and the claim has not been paid, the compliance officer may issue an order to pay an amount owing for which directors are liable under section 15 against some or all of the directors and shall serve it on them in accordance with section 64.

Procedure

(4) Subsection (2) applies with necessary modifications to an order made under subsection (3).

Maximum liability

(5) Nothing in this section increases the maximum liability of a director beyond the amounts set out in section 15.

Payment to Director

(6) At the discretion of the Director, a director who is subject to an order under this section may be ordered to pay the amount owing to a worker in trust to the Director.

Further order, s. 15

37 (1) A compliance officer may make an order to pay an amount owing to a worker for which directors are liable under section 15 against some or all of the directors of an operator who were not the subject of an order under section 36, and may serve it on them in accordance with section 64,

- (a) after a compliance officer has made an order against the operator under section 33 that requires an amount owing to a worker be paid and the amount has not been paid and the operator has not applied to have the order reviewed;
- (b) after a compliance officer has made an order against directors under subsection 36 (1) or (3) and the amount has not been paid and the operator or the directors have not applied to have it reviewed;
- (c) after the Board has issued, amended or affirmed an order under section 45 if the order, as issued, amended or affirmed, requires the operator or the directors to pay an amount owing to a worker and the amount set out in the order has not been paid.

Payment to Director

(2) At the discretion of the Director, a director who is subject to an order under this section may be ordered to pay an amount owing to a worker in trust to the Director.

Money paid when no review

38 (1) Money paid to the Director under an order under section 33, 34, 36 or 37 shall be paid to the person with respect to whom the order was issued unless an application for review is made under section 43 within the period required under that section.

Money distributed rateably

(2) If the money paid to the Director under one of those orders is not enough to pay all of the persons entitled to it under the order the full amount to which they are entitled, the Director shall distribute that money, including money received with respect to administrative costs, to the persons in proportion to their entitlement.

No proceeding against Director

(3) No proceeding shall be instituted against the Director for acting in compliance with this section.

Compliance order

39 (1) If a compliance officer finds that a person has contravened a provision of this Act or the regulations, the officer may,

- (a) order that the person cease contravening the provision;
- (b) order what action the person shall take or refrain from taking in order to comply with the provision; and
- (c) specify a date by which the person must do so.

Payment may not be required

(2) No order under this section shall require the payment of an amount owing to a worker or payment of compensation.

Other means not a bar

(3) Nothing in subsection (2) precludes a compliance officer from issuing an order under section 33, 34, 36 or 37 and an order under this section in respect of the same contravention.

Application of s. 33 (5) to (8)

(4) Subsections 33 (5) to (8) apply, with necessary modifications, with respect to orders issued under this section.

Injunction proceeding

(5) At the instance of the Director, the contravention of an order made under subsection (1) may be restrained upon an application, made without notice, to a judge of the Superior Court of Justice.

Same

(6) Subsection (5) applies with respect to a contravention of an order in addition to any other remedy or penalty for its contravention.

Refusal to issue order

40 (1) If, after a person files a complaint alleging a contravention of this Act or the regulations in respect of which an order could be issued under section 33, 34 or 39, a compliance officer assigned to investigate the complaint refuses to issue such an order, the officer shall serve a letter, in accordance with section 64, on the person advising the person of the refusal.

Deemed refusal

(2) If no order is issued with respect to a complaint described in subsection (1) within two years after it was filed, a compliance officer shall be deemed to have refused to issue an order and to have served a letter on the person advising the person of the refusal on the last day of the second year.

Time limit on recovery, worker's complaint

41 (1) If a worker files a complaint alleging a contravention of this Act or the regulations, the compliance officer investigating the complaint may not issue an order for payment of an amount owing that became due to the worker under the provision that was the subject of the complaint or any other provision of this Act or the regulations if the amount owing became due more than two years before the complaint was filed.

Same, another worker's complaint

(2) If, in the course of investigating a complaint, a compliance officer finds that an operator has contravened this Act or the regulations with respect to a worker who did not file a complaint, the officer may not issue an order for payment of an amount owing that became due to that worker as a result of that contravention if the amount owing became due more than two years before the complaint was filed.

Same, inspection

(3) If a compliance officer finds during an inspection that an operator has contravened this Act or the regulations with respect to a worker, the officer may not issue an order for payment of an amount owing that became due to the worker more than two years before the officer commenced the inspection.

Settlement

42 (1) Subject to subsection (8), if a worker and an operator who have agreed to a settlement respecting a contravention or alleged contravention of this Act or the regulations inform a compliance officer in writing of the terms of the settlement and do what they agreed to do under it,

- (a) the settlement is binding on the parties;
- (b) any complaint filed by the worker respecting the contravention or alleged contravention is deemed to have been withdrawn;
- (c) any order made in respect of the contravention or alleged contravention is void; and
- (d) any proceeding, other than a prosecution, respecting the contravention or alleged contravention is terminated.

Compliance orders

(2) Clause (1) (c) does not apply with respect to an order issued under section 39.

Notices of contravention

(3) This section does not apply with respect to a notice of contravention.

Payment by officer

(4) If a compliance officer receives money for a worker under this section, the officer may pay it directly to the worker or to the Director in trust.

Same

(5) If money is paid in trust to the Director under subsection (4), the Director shall pay it to the worker.

Administrative costs

- (6) If the settlement concerns an order to pay, the Director is, despite clause (1) (c), entitled to be paid,
 - (a) that proportion of the administrative costs that were ordered to be paid that is the same as the proportion of the amount of payment or compensation ordered to be paid that the worker is entitled to receive under the settlement; and
 - (b) that proportion of the collector's fees and disbursements that were added to the amount of the order under subsection 50 (10) that is the same as the proportion of the amount of payment or compensation ordered to be paid that the worker is entitled to receive under the settlement.

Restriction on settlement

(7) No person shall enter into a settlement that would permit or require that person or any other person to engage in future contraventions of this Act.

Application to void settlement

(8) If, upon application to the Board, the worker demonstrates that the worker entered into the settlement as a result of fraud or coercion,

- (a) the settlement is void;
- (b) the complaint is deemed never to have been withdrawn;
- (c) any order made in respect of the contravention or alleged contravention is reinstated; and
- (d) any proceedings respecting the contravention or alleged contravention that were terminated shall be resumed.

Review

43 (1) A person against whom an order has been issued under section 33, 34, 36, 37 or 39 is entitled to a review of the order by the Board if, within the period set out in subsection (4), the person,

- (a) applies to the Board in writing for a review;
- (b) in the case of an order under section 33, pays the amount owing under the order to the Director in trust or provides the Director with an irrevocable letter of credit acceptable to the Director in that amount; and
- (c) in the case of an order under section 34, pays the lesser of the amount owing under the order and \$10,000 to the Director in trust or provides the Director with an irrevocable letter of credit acceptable to the Director in that amount.

Worker seeks review of order

(2) If an order has been issued under section 33 or 34 with respect to a worker, the worker is entitled to a review of the order by the Board if, within the period set out in subsection (4), the worker applies to the Board in writing for a review.

Worker seeks review of refusal

(3) If a worker has filed a complaint alleging a contravention of this Act or the regulations and an order could be issued under section 33, 34 or 39 with respect to such a contravention, the worker is entitled to a review of a compliance officer's refusal to issue such an order if, within the period set out in subsection (4), the worker applies to the Board in writing for such a review.

Period for applying for review

(4) An application for a review under subsection (1), (2) or (3) shall be made within 30 days after the day on which the order, letter advising of the order or letter advising of the refusal to issue an order, as the case may be, is served.

Extension of time

(5) The Board may extend the time for applying for a review under this section if it considers it appropriate in the circumstances to do so and, in the case of an application under subsection (1),

- (a) the Board has inquired of the Director whether the Director has paid to the worker the payment or compensation that was the subject of the order and is satisfied that the Director has not done so; and
- (b) the Board has inquired of the Director whether a collector's fees or disbursements have been added to the amount of the order under subsection 50 (10) and, if so, the Board is satisfied that fees and disbursements were paid by the person against whom the order was issued.

Hearing

(6) Subject to subsection (11), the Board shall hold a hearing for the purposes of the review.

Parties

(7) The following are the parties to the review:

1. The applicant for the review of an order.
2. If the person against whom an order was issued applies for the review, the worker with respect to whom the order was issued.
3. If the worker applies for the review of an order, the person against whom the order was issued.
4. If the worker applies for a review of a refusal to issue an order under section 33, 34 or 39, the person against whom such an order could be issued.
5. If a director of a corporation applies for the review, the applicant and each director, other than the applicant, on whom the order was served.
6. The Director.
7. Any other persons specified by the Board.

Parties given full opportunity

(8) The Board shall give the parties full opportunity to present their evidence and make their submissions.

Practice and procedure for review

(9) The Board shall determine its own practice and procedure with respect to a review under this section.

Rules of practice

(10) The chair of the Board may make rules,

- (a) governing the Board's practice and procedure and the exercise of its powers; and
- (b) providing for forms and their use.

Expedited decisions

(11) The chair of the Board may make rules to expedite decisions about the Board's jurisdiction, and those rules,

- (a) may provide that the Board is not required to hold a hearing; and
- (b) despite subsection (8), may limit the extent to which the Board is required to give full opportunity to the parties to present their evidence and to make their submissions.

Conflict with *Statutory Powers Procedure Act*

(12) If there is a conflict between the rules made under this section and the *Statutory Powers Procedure Act*, the rules under this section prevail.

Rules not regulations

(13) Rules made under this section are not regulations within the meaning of Part III (Regulations) of the *Legislation Act, 2006*.

Money held in trust pending review

44 (1) This section applies if money with respect to an order to make payment for an amount owing or compensation is paid to the Director in trust and the person against whom the order was issued applies to the Board for a review of the order.

If settlement

(2) If the matter is settled under section 42 or 46, the amount paid into trust shall, subject to subsection 42 (6) or 46 (6), be paid out in accordance with the settlement.

If no settlement

(3) If the matter is not settled under section 42 or 46, the amount paid into trust shall be paid out in accordance with the Board's decision.

Powers of Board

45 (1) This section sets out the Boards powers in a review under section 43.

Persons to represent groups

(2) If a group of parties have the same interest or substantially the same interest, the Board may designate one or more of the parties in the group to represent the group.

Quorum

(3) The chair or a vice-chair of the Board constitutes a quorum for the purposes of this section and is sufficient for the exercise of the jurisdiction and powers of the Board under it.

Posting of notices

(4) The Board may require a person to post and to keep posted any notices that the Board considers appropriate even if the person is not a party to the review.

Same

(5) If the Board requires a person to post and keep posted notices, the person shall post the notices and keep them posted in the manner required by the Board.

Powers of Board

(6) The Board may, with necessary modifications, exercise the powers conferred on a compliance officer under this Act and may substitute its findings for those of the officer who issued the order or refused to issue the order.

Dealing with order

(7) Without restricting the generality of subsection (6),

- (a) on a review of an order, the Board may amend, rescind or affirm the order or issue a new order; and
- (b) on a review of a refusal to issue an order, the Board may issue an order or affirm the refusal.

Labour relations officer

(8) Any time after an application for review is made, the Board may direct a labour relations officer to examine any records or other documents and make any inquiries it considers appropriate, but it shall not direct a compliance officer to do so.

Powers of labour relations officers

(9) Sections 22 and 23 apply with necessary modifications with respect to a labour relations officer acting under subsection (8).

Payment or compensation owing

(10) Subsection (11) applies if, during a review of an order requiring the payment of an amount owing or compensation or a review of a refusal to issue such an order,

- (a) the Board finds that a specified amount of payment or compensation is owing; or
- (b) there is no dispute that a specified amount of payment or compensation is owing.

Interim order

(11) The Board shall affirm the order to the extent of the specified amount or issue an order to the extent of that amount, even though the review is not yet completed.

Decision final

(12) A decision of the Board is final and binding upon the parties to the review and any other parties as the Board may specify.

Judicial review

(13) Nothing in subsection (12) prevents a court from reviewing a decision of the Board under this section, but a decision of the Board concerning the interpretation of this Act shall not be overturned unless the decision is unreasonable.

Settlement through labour relations officer

46 (1) The Board may authorize a labour relations officer to attempt to effect a settlement of the matters raised in an application for review under section 43.

Certain matters not bar to settlement

(2) A settlement may be effected under this section even if,

- (a) the compliance officer who issued the order or refused to issue the order does not participate in the settlement discussions or is not advised of the discussions or settlement; or
- (b) the review under section 43 has started.

Compliance orders

(3) A settlement respecting a compliance order shall not be made if the Director has not approved the terms of the settlement.

Effect of settlement

(4) If the parties to a settlement under this section do what they agreed to do under the settlement,

- (a) the settlement is binding on the parties;
- (b) if the review concerns an order, the order is void; and
- (c) the review is terminated.

Application to void settlement

(5) If, upon application to the Board, the worker demonstrates that the worker entered into the settlement as a result of fraud or coercion,

- (a) the settlement is void;
- (b) if the review concerned an order, the order is reinstated; and
- (c) the review shall be resumed.

Distribution

(6) If the order that was the subject of the application required the payment of money to the Director in trust, the Director,

- (a) shall distribute the amount held in trust with respect to payment or compensation in accordance with the settlement; and
- (b) despite clause (4) (b), is entitled to be paid,

- (i) that proportion of the administrative costs that were ordered to be paid that is the same as the proportion of the amount of payment or compensation ordered to be paid that the worker is entitled to receive under the settlement, and
- (ii) that proportion of the collector's fees and disbursements that were added to the amount of the order under subsection 50 (10) that is the same as the proportion of the amount of payment or compensation ordered to be paid that the worker is entitled to receive under the settlement.

Notice of contravention

47 (1) If a compliance officer believes that a person has contravened a provision of this Act or the regulations, the officer may issue a notice to the person setting out the officer's belief and specifying the amount of the penalty for the contravention.

Amount of penalty

(2) The amount of the penalty shall be determined in accordance with the regulations.

Penalty within range

(3) If a range has been prescribed as the penalty for a contravention, the compliance officer shall determine the amount of the penalty in accordance with the prescribed criteria, if any.

Information

(4) The notice shall contain or be accompanied by information setting out the nature of the contravention.

Service

(5) A notice issued under this section shall be served on the person in accordance with section 64.

Deemed contravention

(6) The person shall be deemed to have contravened the provision set out in the notice if,

- (a) the person fails to apply to the Board for a review of the notice within the period set out in subsection 48 (1); or
- (b) the person applies to the Board for a review of the notice and the Board finds that the person contravened the provision set out in the notice.

Penalty

(7) A person who is deemed to have contravened a provision of this Act or the regulations shall pay to the Minister of Finance the penalty for the deemed contravention and the amount of any collector's fees and disbursements added to the amount under subsection 50 (10).

Same

(8) The payment under subsection (7) shall be made within 30 days after the day the notice of contravention was served or, if the notice of contravention is appealed, within 30 days after the Board finds that there was a contravention.

Publication re notice of contravention

(9) If a person, including an individual, is deemed under subsection (6) to have contravened a provision of this Act or the regulations after having been issued a notice of contravention, the Director may publish or otherwise make available to the general public the name of the person, a description of the deemed contravention, the date of the deemed contravention and the penalty for the deemed contravention.

Internet publication

(10) Authority to publish under subsection (9) includes authority to publish on the Internet.

Disclosure

(11) Any disclosure made under subsection (9) shall be deemed to be in compliance with clause 42 (1) (e) of the *Freedom of Information and Protection of Privacy Act*.

Other means not a bar

(12) A compliance officer may issue a notice to a person under this section even though an order has been or may be issued against the person under section 33, 34 or 39 or the person has been or may be prosecuted for or convicted of an offence with respect to the same contravention.

Trade union

(13) This section does not apply with respect to a contravention of this Act or the regulations with respect to a worker who is represented by a trade union.

Director

(14) This section does not apply with respect to a contravention of this Act or the regulations by a director or officer of an operator that is a corporation.

Review of notice of contravention

48 (1) A person against whom a notice of contravention has been issued under section 47 may dispute the notice if the person makes a written application to the Board for a review,

- (a) within 30 days after the date of service of the notice; or
- (b) if the Board considers it appropriate in the circumstances to extend the time for applying, within the period specified by the Board.

Hearing

(2) The Board shall hold a hearing for the purposes of the review.

Parties

(3) The parties to the review are the person against whom the notice was issued and the Director.

Onus

(4) On a review under this section, the onus is on the Director to establish, on a balance of probabilities, that the person against whom the notice of contravention was issued contravened the provision of this Act indicated in the notice.

Decision

(5) The Board may,

- (a) find that the person did not contravene the provision and rescind the notice;
- (b) find that the person did contravene the provision and affirm the notice; or
- (c) find that the person did contravene the provision but amend the notice by reducing the penalty.

Collector's fees and disbursements

(6) If the Board finds that the person contravened the provision and if it extended the time for applying for a review under clause (1) (b),

- (a) before issuing its decision, it shall inquire of the Director whether a collector's fees and disbursements have been added to the amount set out in the notice under subsection 50 (10); and
- (b) if they have been added to that amount, the Board shall advise the person of that fact and of the total amount, including the collector's fees and disbursements, when it issues its decision.

Parties given full opportunity

(7) The Board shall give the parties full opportunity to present their evidence and make their submissions.

Practice and procedure for review

(8) The Board shall determine its own practice and procedure with respect to a review under this section.

Rules

(9) The chair of the Board may make rules with respect to a review under this section,

- (a) governing the Board's practice and procedure and the exercise of its powers; and
- (b) providing for forms and their use.

Conflict with *Statutory Powers Procedure Act*

(10) If there is a conflict between the rules made under this section and the *Statutory Powers Procedure Act*, the rules under this section prevail.

Rules not regulations

(11) Rules made under this section are not regulations within the meaning of Part III (Regulations) of the *Legislation Act, 2006*.

Quorum

(12) The chair or a vice-chair of the Board constitutes a quorum for the purposes of this section and is sufficient for the exercise of the jurisdiction and powers of the Board under it.

Posting of notices

(13) The Board may require a person to post and to keep posted any notices that the Board considers appropriate even if the person is not a party to the review.

Same

(14) If the Board requires a person to post and keep posted notices, the person shall post the notices and keep them posted in the manner required by the Board.

Decision final

(15) A decision of the Board is final and binding upon the parties to the review and any other parties as the Board may specify.

Judicial review

(16) Nothing in subsection (15) prevents a court from reviewing a decision of the Board under this section, but a decision of the Board concerning the interpretation of this Act or the regulations shall not be overturned unless the decision is unreasonable.

When no decision after six months

49 (1) This section applies if the Board has commenced a hearing to review an order, refusal to issue an order or notice of contravention, six months or more have passed since the last day of the hearing and a decision has not been made.

Termination of proceeding

(2) On the application of a party in the proceeding, the chair may terminate the proceeding.

Re-institution of proceeding

(3) If a proceeding is terminated according to subsection (2), the chair shall re-institute the proceeding upon such terms and conditions as the chair considers appropriate.

COLLECTIONS

Collections

50 (1) If an operator, director or other person is liable to make a payment under this Act, the Director may collect or arrange for the collection of the amount payable in accordance with the regulations and may exercise such collections powers as are prescribed.

Director may authorize collector

(2) The Director may authorize a collector to exercise those power that the Director specifies in the authorization to collect amounts owing under this Act.

Same

(3) The Director may specify the Director's prescribed collection powers and the Board's powers under section 19 of the *Statutory Powers Procedure Act* in an authorization under subsection (2).

Costs of collection

(4) Despite clause 22 (a) of the *Collection and Debt Settlement Services Act*, the Director may also authorize the collector to collect a reasonable fee or reasonable disbursements or both from each person from whom the collector seeks to collect amounts owing under this Act.

Same

(5) The Director may impose conditions on an authorization under subsection (4) and may determine what constitutes a reasonable fee or reasonable disbursements for the purposes of that subsection.

Exception re disbursements

(6) The Director shall not authorize a collector who is required to be registered under the *Collection and Debt Settlement Services Act* to collect disbursements.

Disclosure

(7) The Director may disclose, or allow to be disclosed, information collected under the authority of this Act or the regulations to a collector for the purpose of collecting an amount payable under this Act.

Same

(8) Any disclosure of personal information made under subsection (7) shall be deemed to be in compliance with clause 42 (1) (d) of the *Freedom of Information and Protection of Privacy Act*.

Collector's powers

(9) A collector may exercise any of the powers specified in an authorization of the Director under subsection (2).

Fees and disbursements part of order

(10) If a collector is seeking to collect an amount owing under an order or notice of contravention, any fees and disbursements authorized under subsection (4) shall be deemed to be owing under and shall be deemed to be added to the amount of the order or notice of contravention.

OFFENCES AND PROSECUTIONS

Offence to keep false records

51 (1) No person shall make, keep or produce false records or other documents that are required to be kept under this Act or participate or acquiesce in the making, keeping or production of false records or other documents that are required to be kept under this Act.

False or misleading information

(2) No person shall provide false or misleading information under this Act.

General offence

52 A person who contravenes this Act or the regulations or fails to comply with an order, direction or other requirement under this Act or the regulations is guilty of an offence and on conviction is liable,

- (a) if the person is an individual, to a fine of not more than \$50,000 or to imprisonment for a term of not more than 12 months or to both;
- (b) subject to clause (c), if the person is a corporation, to a fine of not more than \$100,000; and
- (c) if the person is a corporation that has previously been convicted of an offence under this Act,
 - (i) if the person has one previous conviction, to a fine of not more than \$250,000, and
 - (ii) if the person has more than one previous conviction, to a fine of not more than \$500,000.

Additional orders

53 (1) If an operator is convicted under section 52 of contravening section 13, the court shall, in addition to any fine or term of imprisonment that is imposed, order that the operator take specific action or refrain from taking specific action to remedy the contravention.

Same

(2) Without restricting the generality of subsection (1), the order made by the court may require one or more of the following:

- 1. A person be paid any amount that is owing to the person.
- 2. A person's access to the operator's digital platform be reinstated.
- 3. A person be compensated for any loss incurred by the person as a result of the contravention.

Offence re order for reinstatement

54 A person who fails to comply with an order issued under section 53 is guilty of an offence and on conviction is liable,

- (a) if the person is an individual, to a fine of not more than \$2,000 for each day during which the failure to comply continues or to imprisonment for a term of not more than six months or to both; and
- (b) if the person is a corporation, to a fine of not more than \$4,000 for each day during which the failure to comply continues.

Additional orders re other contraventions

55 (1) If an operator is convicted under section 52 of contravening a provision of this Act other than section 13, the court shall, in addition to any fine or term of imprisonment that is imposed, assess any amount owing to a worker affected by the contravention and order the operator to pay the amount assessed to the Director.

Collection by Director

(2) The Director shall attempt to collect the amount ordered to be paid under subsection (1) and if the Director is successful shall distribute it to the worker.

Enforcement of order

(3) An order under subsection (1) may be filed by the Director in a court of competent jurisdiction and upon filing shall be deemed to be an order of that court for the purposes of enforcement.

Offence re directors' liability

56 (1) A director of a corporation is guilty of an offence if the director,

- (a) fails to comply with an order of a compliance officer under section 36 or 37 and has not applied for a review of that order; or
- (b) fails to comply with an order issued under section 36 or 37 that has been amended or affirmed by the Board on a review of the order under section 43 or with a new order issued by the Board on such a review.

Penalty

- (2) A director convicted of an offence under subsection (1) is liable to a fine of not more than \$50,000.

Offence re permitting offence by corporation

57 (1) If a corporation contravenes this Act or the regulations, an officer, director or agent of the corporation or a person acting or claiming to act in that capacity who authorizes or permits the contravention or acquiesces in it is a party to and guilty of the offence and is liable on conviction to the fine or imprisonment provided for the offence.

Same

- (2) Subsection (1) applies whether or not the corporation has been prosecuted or convicted of the offence.

Additional penalty

(3) If an individual is convicted under this section, the court may, in addition to any other fine or term of imprisonment that is imposed, assess any amount owing to a worker affected by the contravention and order the individual to pay the amount assessed to the Director.

Collection by Director

(4) The Director shall attempt to collect the amount ordered to be paid under subsection (3) and if the Director is successful shall distribute it to the worker.

No prosecution without consent

- (5) No prosecution shall be commenced under this section without the consent of the Director.

Proof of consent

(6) The production of a document that appears to show that the Director has consented to a prosecution under this section is admissible as evidence of the Director's consent.

Where prosecution may be heard

58 (1) Despite section 29 of the *Provincial Offences Act*, the prosecution of an offence under this Act may be heard and determined by the Ontario Court of Justice sitting in the area where the accused is resident or carries on business, if the prosecutor so elects.

Election to have judge preside

(2) The Attorney General or an agent for the Attorney General may by notice to the clerk of the court require that a judge of the court hear and determine the prosecution.

Publication re convictions

59 (1) If a person, including an individual, is convicted of an offence under this Act, the Director may publish or otherwise make available to the general public the name of the person, a description of the offence, the date of the conviction and the person's sentence.

Internet publication

- (2) Authority to publish under subsection (1) includes authority to publish on the Internet.

Disclosure

(3) Any disclosure made under subsection (1) shall be deemed to be in compliance with clause 42 (1) (e) of the *Freedom of Information and Protection of Privacy Act*.

Limitation period

60 No prosecution shall be commenced under this Act more than two years after the date on which the offence was committed or alleged to have been committed.

MISCELLANEOUS EVIDENTIARY PROVISIONS

Copy constitutes evidence

61 (1) In a prosecution or other proceeding under this Act, a copy of an order or notice of contravention that appears to be made under this Act or the regulations and signed by a compliance officer or the Board is evidence of the order or notice and of the facts appearing in it without proof of the signature or office of the person appearing to have signed the order or notice.

Same

(2) In a prosecution or other proceeding under this Act, a copy of a record or other document or an extract from a record or other document that appears to be certified as a true copy or accurate extract by a compliance officer is evidence of the record or document or the extracted part of the record or document and of the facts appearing in the record, document or extract without proof of the signature or office of the person appearing to have certified the copy or extract or any other proof.

Certificate of Director constitutes evidence

(3) In a prosecution or other proceeding under this Act, a certificate that appears to be signed by the Director setting out that the records of the Ministry indicate that a person has failed to make the payment required by an order or a notice of contravention issued under this Act is evidence of the failure to make that payment without further proof.

Same, collector

(4) In a prosecution or other proceeding under this Act, a certificate shown by a collector that appears to be signed by the Director setting out any of the following facts is evidence of the fact without further proof:

1. The Director has authorized the collector to collect amounts owing under this Act.
2. The Director has authorized the collector to collect a reasonable fee or reasonable disbursements or both.
3. The Director has, or has not, imposed conditions on an authorization described in paragraph 2 and has, or has not, determined what constitutes a reasonable fee or reasonable disbursements.
4. Any conditions imposed by the Director on an authorization described in paragraph 2.

Same, date of complaint

(5) In a prosecution or other proceeding under this Act, a certificate that appears to be signed by the Director setting out the date on which the records of the Ministry indicate that a complaint was filed is evidence of that date without further proof.

GENERAL**Limitation period**

62 (1) A compliance officer shall not issue an order to pay an amount owing or compensation or a notice of contravention with respect to a contravention of this Act concerning a worker,

- (a) if the worker filed a complaint about the contravention, more than two years after the complaint was filed;
- (b) if the worker did not file a complaint but another worker with the same operator did file a complaint, more than two years after the other worker filed the complaint if the officer discovered the contravention with respect to the worker while investigating the complaint; or
- (c) if the worker did not file a complaint and clause (b) does not apply, more than two years after a compliance officer commenced an inspection with respect to the operator for the purpose of determining whether a contravention occurred.

Restriction on rescission or amendment

(2) A compliance officer shall not amend or rescind an order to pay an amount owing or compensation after the last day on which the officer could have issued that order under subsection (1) unless the operator against whom the order was issued and the worker with respect to whom it was issued consent to the rescission or amendment.

Same

(3) A compliance officer shall not amend or rescind a notice of contravention after the last day on which the officer could have issued that notice under subsection (1) unless the operator against whom the notice was issued consents to the rescission or amendment.

Persons from Board not compellable

63 (1) Except with the consent of the Board, none of the following persons may be compelled to give evidence in a civil proceeding or in a proceeding before the Board or another board or tribunal with respect to information obtained while exercising their powers or performing their duties under this Act:

1. A Board member.
2. The registrar of the Board.
3. An employee of the Board.

Non-disclosure

(2) A labour relations officer under the *Labour Relations Act, 1995* who receives information or material under this Act shall not disclose it to any person or body other than the Board unless the Board authorizes the disclosure.

Service of documents

64 Where service of a document on a person is required or permitted under this Act, it is sufficiently served if it is served in accordance with the regulations.

Conflict

65 If a provision of this Act or the regulations conflicts with a provision of any other Act or regulation, the provision that provides the greatest right, benefit or entitlement to workers shall prevail.

Regulations

66 (1) The Lieutenant Governor in Council may make regulations for carrying out the purposes of this Act and, without restricting the generality of the foregoing, may make regulations,

- (a) prescribing anything referred to in this Act as prescribed, and respecting any matter that this Act describes as being provided for in the regulations or that is to be done in accordance with the regulations;
- (b) defining any word or expression used in this Act that is not defined in it;
- (c) clarifying the definitions of “digital platform”, “digital platform work”, “operator” and “worker” for the purposes of this Act;
- (d) prescribing what constitutes a work assignment;
- (e) providing that this Act, any provision of this Act or a regulation does not apply to a worker or operator, or to a class of workers or operators, or in specified circumstances;
- (f) governing penalties for contraventions for the purposes of subsection 47 (2), and without restricting the generality of this power,
 - (i) establishing different penalties or ranges of penalties for different types of contraventions or the method of determining those penalties or ranges,
 - (ii) specifying that different penalties, ranges or methods of determining a penalty or range apply to contraveners who are individuals and to contraveners that are corporations, or
 - (iii) prescribing criteria a compliance officer is required or permitted to consider when imposing a penalty;
- (g) governing collections for the purposes of section 50 and prescribing collection powers for the purposes of that section, including settlements by collectors and circumstances in which the Director’s approval is required for settlement by collectors;
- (h) prescribing for one or more terms or conditions that apply to operators and workers engaged in specified digital platform work or one or more requirements or prohibitions that apply to operators and workers engaged in specified digital platform work;
- (i) providing that any term, condition, requirement or prohibition prescribed under clause (h) applies in place of or in addition to one or more provisions of this Act or the regulations;
- (j) providing that a regulation made under clause (h) or (i) applies only in respect of operators and workers that have characteristics specified in the regulation;
- (k) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

Classes

(2) A regulation made under this section may be restricted in its application to any class of worker or operator and may treat different classes of workers or operators in different ways.

Conditions

(3) A regulation made under this section may provide that it applies only if one or more conditions specified in it are met.

Retroactive

(4) A regulation is, if it so provides, effective with reference to a period before it is filed.

Transitional regulations

(5) The Lieutenant Governor in Council may make regulations providing for any transitional matter that the Lieutenant Governor in Council considers necessary or advisable in connection with the implementation of this Act.

Conflict with transitional regulations

(6) In the event of a conflict between this Act or the regulations and a regulation made under subsection (5), the regulation made under subsection (5) prevails.

COMMENCEMENT AND SHORT TITLE**Commencement**

67 The Act set out in this Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

68 The short title of the Act set out in this Schedule is the *Digital Platform Workers' Rights Act, 2022*.

**SCHEDULE 2
EMPLOYMENT STANDARDS ACT, 2000**

1 Subsection 1 (1) of the *Employment Standards Act, 2000* is amended by adding the following definitions:

“business consultant” means an individual who provides advice or services to a business or organization in respect of its performance, including advice or services in respect of the operations, profitability, management, structure, processes, finances, accounting, procurements, human resources, environmental impacts, marketing, risk management, compliance or strategy of the business or organization; (“conseiller commercial”)

“information technology consultant” means an individual who provides advice or services to a business or organization in respect of its information technology systems, including advice about or services in respect of planning, designing, analyzing, documenting, configuring, developing, testing and installing the business or organization’s information technology systems; (“conseiller en technologie de l’information”)

2 (1) Subsection 3 (5) of the Act is amended by adding the following paragraph:

11.1 If the requirements of subsection (7) are met, a business consultant or an information technology consultant.

(2) Section 3 of the Act is amended by adding the following subsections:

Business and IT consultants

(7) For the purposes of paragraph 11.1 of subsection (5), the following are the requirements that must be met:

1. The business consultant or information technology consultant provides services through,
 - i. a corporation of which the consultant is either a director or a shareholder who is a party to a unanimous shareholder agreement, or
 - ii. a sole proprietorship of which the consultant is the sole proprietor, if the services are provided under a business name of the sole proprietorship that is registered under the *Business Names Act*.
2. There is an agreement for the consultant’s services that sets out when the consultant will be paid and the amount the consultant will be paid, which must be equal to or greater than \$60 per hour, excluding bonuses, commissions, expenses and travelling allowances and benefits, or such other amount as may be prescribed, and must be expressed as an hourly rate.
3. The consultant is paid the amount set out in the agreement as required by paragraph 2.
4. Such other requirements as may be prescribed.

Rules re calculation of rate

(8) For the purposes of paragraph 2 of subsection (7), such other rules as may be prescribed apply with respect to the calculation of a consultant’s hourly rate or other compensation.

3 Section 15 of the Act is amended by adding the following subsection:

Retention of electronic monitoring policy

(8.2) An employer shall retain or arrange for some other person to retain copies of every written policy on electronic monitoring required under Part XI.1 for three years after the policy ceases to be in effect.

4 The Act is amended by adding the following Part:

**PART XI.1
WRITTEN POLICY ON ELECTRONIC MONITORING**

Written policy on electronic monitoring

41.1.1 (1) An employer that, on January 1 of any year, employs 25 or more employees shall, before March 1 of that year, ensure it has a written policy in place for all employees with respect to electronic monitoring of employees.

Required information

(2) The written policy with respect to electronic monitoring must contain the following information:

1. Whether the employer electronically monitors employees and if so,
 - i. a description of how and in what circumstances the employer may electronically monitor employees, and
 - ii. the purposes for which information obtained through electronic monitoring may be used by the employer.
2. The date the policy was prepared and the date any changes were made to the policy.
3. Such other information as may be prescribed.

Copy of policy

(3) An employer that is required under this section to have a written policy with respect to electronic monitoring shall provide a copy of the policy to each of the employer's employees within 30 days from the day the employer is required to have the policy in place or, if an existing policy is changed, within 30 days of the changes being made.

Same, new employee

(4) An employer that is required under this section to have a written policy with respect to electronic monitoring shall provide a copy of the policy to a new employee within 30 days of the day the employee becomes an employee of the employer or within 30 days from the day the employer is required to have the policy in place, whichever is later.

Same, assignment employee

(5) An employer that is a client of a temporary help agency, and that is required under this section to have a written policy with respect to electronic monitoring shall provide an assignment employee assigned to perform work for the employer with a copy of the policy within 24 hours of the start of the assignment or within 30 days from the day the employer is required to have the policy in place, whichever is later.

Complaints

(6) A complaint under subsection 96 (1) alleging a contravention of this section may be made only with respect to subsections (3), (4) and (5) and, for greater certainty, a person may not file a complaint alleging a contravention of any other provision of this section or have such a complaint investigated.

Use of information

(7) For greater certainty, nothing in this section affects or limits an employer's ability to use information obtained through electronic monitoring of its employees.

Transition

(8) Despite subsection (1), an employer shall,

- (a) have until the date that is six months after the day the *Working for Workers Act, 2022* receives Royal Assent instead of March 1 to comply with the requirements of subsection (1); and
- (b) determine whether it employs 25 employees or more as of the January 1 immediately preceding the date described in clause (a).

5 (1) Subsection 50.2 (1) of the Act is amended by striking out “or” at the end of clause (b) and by adding the following clause:

(b.1) the employee is participating in Canadian Armed Forces military skills training; or

(2) Subsection 50.2 (3) of the Act is amended by striking out “six” and substituting “three”.

(3) Subsection 50.2 (4) of the Act is amended by striking out “clause (1) (a) or (b)” and substituting “clause (1) (a), (b) or (b.1)”.

6 (1) Subsection 141 (1) of the Act is amended by adding the following paragraphs:

11.0.1 Providing for exemptions from Part XI.1, or any provision of it, including providing that employers are not required to have policies in respect of certain forms of electronic monitoring in the circumstances specified in the regulation.

11.0.2 Prescribing one or more terms or conditions of employment related to electronic monitoring that apply to employers who are subject to Part XI.1 and their employees or one or more requirements or prohibitions related to electronic monitoring that apply to those employers and their employees.

11.0.3 Prescribing that any term, condition, requirement or prohibition prescribed under paragraph 11.0.2 applies in place of or in addition to one or more provisions of this Act or the regulations.

(2) Section 141 of the Act is amended by adding the following subsection:

Transitional regulations

(2.0.3.6) The Lieutenant Governor in Council may make regulations providing for any transitional matter that the Lieutenant Governor in Council considers necessary or advisable in connection with the implementation of the amendments made by the *Working for Workers Act, 2022*.

(3) Subsection 141 (2.0.4) of the Act is amended by striking out “or (2.0.3.5)” wherever it appears and substituting in each case “(2.0.3.5) or (2.0.3.6)”.

(4) Subsection 141 (2.2) of the Act is amended by striking out “or (2.1)” in the portion before clause (a) and substituting “(2.0.3.6) or (2.1)”.

Commencement

7 (1) Except as otherwise provided in this section, this Schedule comes into force on the day the *Working for Workers Act, 2022* receives Royal Assent.

(2) Sections 1 and 2 come into force on January 1, 2023.

SCHEDULE 3
FAIR ACCESS TO REGULATED PROFESSIONS AND COMPULSORY TRADES ACT, 2006

1 Section 2 of the *Fair Access to Regulated Professions and Compulsory Trades Act, 2006* is amended by adding the following definition:

“domestic labour mobility applicant” means an individual who has applied for registration by a regulated profession in Ontario and is currently registered with a body that regulates the same profession in a Canadian province or territory other than Ontario; (“candidat à la mobilité de la main-d’oeuvre nationale”)

2 Subsection 4 (2) of the Act is amended by striking out “section 10.2 or 27.1” and substituting “section 9.2, 10.2 or 27.1”.

3 The Act is amended by adding the following section:

Timely decisions, responses and reasons — domestic labour mobility applicant

9.1 (1) Despite sections 8 and 9, the timelines set out in this section shall apply in respect of applications for registration from domestic labour mobility applicants.

Acknowledgement of application

(2) A regulated profession shall, within 10 business days after receiving an application for registration from a domestic labour mobility applicant, provide a written acknowledgment of receipt of the application.

Same

(3) The written acknowledgment of receipt shall include a statement as to whether the application includes everything required by the regulated profession in respect of the application and any other prescribed information.

Registration decision

(4) A regulated profession shall, within 30 business days after receiving an application for registration from a domestic labour mobility applicant and everything required by the regulated profession in respect of the application, make a registration decision and provide the applicant with,

- (a) written communication of the registration decision;
- (b) written reasons respecting a registration decision,
 - (i) to propose that the applicant not be granted registration,
 - (ii) to not grant registration to the applicant, or
 - (iii) to grant registration to the applicant subject to conditions; and
- (c) information respecting the applicant’s rights to any internal review or appeal, including any applicable procedures and deadlines.

Internal review or appeal

(5) A regulated profession shall, within 10 business days after making an internal review or appeal decision in respect of a domestic labour mobility applicant, provide the applicant with written communication of the decision made upon the internal review or appeal and written reasons respecting the decision.

4 The Act is amended by adding the following section:

Exemption

9.2 (1) A time limit set out in section 9.1 does not apply to a regulated profession if the Minister grants an exemption from the time limit in accordance with the regulations.

Same

(2) A regulated profession may apply for an exemption referred to in subsection (1) by submitting appropriate supporting documentation and providing reasons that an exemption is necessary.

Same

(3) An application referred to in subsection (2) shall include the information prescribed by the regulations, if any, and be submitted in accordance with the procedures prescribed by the regulations.

Review of application

(4) The Fairness Commissioner shall review an application for an exemption and make a recommendation to the Minister as to whether the exemption should be permitted.

Determination by Minister

(5) The Minister shall determine whether to grant the exemption and if so, what conditions, if any, should apply to the exemption.

5 (1) Subsection 26 (1) of the Act is amended by adding “Subject to subsection (1.1)” at the beginning.

(2) Section 26 of the Act is amended by adding the following subsection:

Exception

(1.1) The Fairness Commissioner shall not make a compliance order in respect of a contravention of section 8, 9 or 9.1 if the Fairness Commissioner determines that any conditions set out in the regulations for the making of the compliance order have not been met.

6 Section 27.1 of the Act is repealed and the following substituted:

Compliance orders, Minister

27.1 (1) Subject to subsection (2), if the Minister concludes that a regulation or by-law made by a regulated profession under the Act that governs the regulated profession includes a Canadian experience requirement contrary to subsection 10.2 (1), the Minister may make an order requiring the regulated profession to exercise any power or powers that it has to amend or revoke the regulation or by-law.

Exception

(2) The Minister shall not make an order in respect of a contravention of subsection 10.2 (1) if the Minister determines that any conditions set out in the regulations made under this Act for the making of the order have not been met.

7 (1) Clause 34 (1) (c) of the Act is repealed and the following substituted:

- (c) establishing time limits for compliance with any provision or provisions of this Act, including establishing a maximum time period within which a regulated profession shall make registration decisions in respect of applicants other than domestic labour mobility applicants and establishing a process for granting exemptions from a time limit;

(2) Subsection 34 (1) of the Act is amended by adding the following clause:

- (c.1.1) governing applications for an exemption from a time limit set out in section 9.1, including prescribing procedures for applying for an exemption, and the information that shall be included in an application;

(3) Subsection 34 (1) of the Act is amended by adding the following clause:

- (c.1.2) governing when the Fairness Commissioner may make a compliance order in respect of a contravention of section 8, 9 or 9.1;

(4) Clause 34 (1) (c.4) of the Act is repealed and the following substituted:

- (c.4) governing orders that the Minister may make under section 27.1, including governing when an order may be made and the procedures for making an order;

Commencement

8 (1) Except as otherwise provided in this section, this Schedule comes into force on the day the *Working for Workers Act, 2022* receives Royal Assent.

(2) Sections 1, 3 and 5 and subsection 7 (3) come into force on a day to be named by proclamation of the Lieutenant Governor.

**SCHEDULE 4
OCCUPATIONAL HEALTH AND SAFETY ACT**

1 The *Occupational Health and Safety Act* is amended by adding the following section:

Naloxone kits

25.2 (1) Where an employer becomes aware, or ought reasonably to be aware, that there may be a risk of a worker having an opioid overdose at a workplace where that worker performs work for the employer, or where the prescribed circumstances exist, the employer shall,

- (a) provide and maintain in good condition a naloxone kit in that workplace; and
- (b) comply with any other prescribed requirements respecting the provision and maintenance of naloxone kits and the training referred to in subsection (3).

Location of kit

(2) The employer shall ensure that, at any time there are workers in the workplace, the naloxone kit is in the charge of a worker who works in the vicinity of the kit and who has received the training described in subsection (3).

Training

(3) The training shall include training to recognize an opioid overdose, to administer naloxone and to acquaint the worker with any hazards related to the administration of naloxone, and shall meet such other requirements as may be prescribed.

Limit on disclosure

(4) No employer shall disclose to any person more personal information than is reasonably necessary to comply with this section.

Employer duties

(5) For greater certainty, the employer duties set out in section 25 apply, as appropriate, with respect to the administration of naloxone in the workplace.

Definition

(6) In this section,

“naloxone kit” means a kit that includes the prescribed contents.

2 (1) Subsection 66 (1) of the Act is amended by,

- (a) adding “**Subject to subsections (2) and (2.1),**” at the beginning; and
- (b) striking out “**\$100,000**” in the portion after clause (c) and substituting “**\$500,000**”.

(2) Subsection 66 (2) of the Act is repealed and the following substituted:

Same

(2) If a corporation is convicted of an offence under subsection (1), the maximum fine that may be imposed upon the corporation is \$1,500,000.

Same

(2.1) A director or officer of a corporation who contravenes or fails to comply with section 32 is guilty of an offence and on conviction is liable to a fine of not more than \$1,500,000 or to imprisonment for a term of not more than twelve months, or to both.

Aggravating factors

(2.2) Each of the following circumstances shall be considered an aggravating factor for the purposes of determining a penalty under this section:

1. The offence resulted in the death, serious injury or illness of one or more workers.
2. The defendant committed the offence recklessly.
3. The defendant disregarded an order of an inspector.
4. The defendant was previously convicted of an offence under this or another Act.
5. The defendant has a record of prior non-compliance with this Act or the regulations.
6. The defendant lacks remorse.
7. There is an element of moral blameworthiness to the defendant’s conduct.
8. In committing the offence, the defendant was motivated by a desire to increase revenue or decrease costs.

9. After the commission of the offence, the defendant,
 - i. attempted to conceal the commission of the offence from the Ministry or other public authorities, or
 - ii. failed to co-operate with the Ministry or other public authorities.
10. Any other circumstance that is prescribed as an aggravating factor.

(3) Section 66 of the Act is amended by adding the following subsection:

Additional orders

(5) If a person is convicted of an offence under this section, the court may, in addition to any fine or imprisonment that is imposed, make any prescribed order.

3 (1) Clause 67 (2) (a) of the Act is amended by striking out “a director” and substituting “an officer or director”.

(2) Clause 67 (2) (b) of the Act is repealed and the following substituted:

- (b) by registered letter addressed to an individual or corporation mentioned in clause (a) at the last known place of business of the individual or corporation,

4 Section 69 of the Act is amended by striking out “one year” in the portion before clause (a) and substituting “two years”.

5 Subsection 70 (2) of the Act is amended by adding the following paragraph:

- 43.1 governing the employer’s obligations under section 25.2 respecting the provision and maintenance of naloxone kits and the training referred to in subsection 25.2 (3);

Commencement

6 (1) Except as otherwise provided in this section, this Schedule comes into force on the day the *Working for Workers Act, 2022* receives Royal Assent.

(2) Sections 2 to 4 come into force on the later of July 1, 2022 and the day the *Working for Workers Act, 2022* receives Royal Assent.

(3) Sections 1 and 5 come into force on a day to be named by proclamation of the Lieutenant Governor.