

## Employment Considerations when Starting a Business

New businesses often start as one person companies. As the business expands, however, the owner may begin to need assistance in the form of additional employees. Employees are often an important asset of a business, but they can also be among its most substantial liabilities. As a result, it is important that a new employer understand the nature of the liabilities being undertaken as well as the means by which those liabilities may be managed.

When an employer hires an employee, the employer will have to abide by employment standards and will have obligations to the employee. The employer will be undertaking a substantial responsibility to make remittances to the government on behalf of their employees.

An employer's obligations to employees arise through statute, regulation and the law. An employer's statutory and regulatory obligations to an employee will depend upon whether the employer is federally or provincially regulated. Generally speaking, businesses engaged in banking, broadcasting, aeronautics or inter-provincial transport are federally regulated, while all other businesses are provincially regulated. This article will focus on businesses that are provincially regulated.

Some of the provincial legislation that governs business in Ontario includes: the Employment Standards Act, the Labour Relations Act, the Pay Equity Act, the Occupational Health and Safety Act and the Ontario Human Rights Code. The Employment Standards Act sets minimum protections for employees regarding hours of work and overtime pay, statutory holidays, parental leave and termination pay. These are the minimum protections that employers must provide to employees. Employees cannot contract out of these rights afforded under the Act. The Occupational Health and Safety Act imposes an obligation on employers to ensure that all reasonable measures to ensure the health and safety of employees are taken. The regulations of this Act describe precise requirements to be imposed in the performance of particular job functions. The Ontario Human Rights Code prescribes that every person has the right to equal treatment with respect to employment without discrimination. The Act imposes duties on employers to accommodate the personal characteristics of their employees in order to avoid discrimination.

An employer should be aware of these standards when hiring employees and may wish to consider instituting a policy of having employees sign an employment contract prior to commencing work. Although employment contracts cannot affect the statutory rights and obligations between employers and employees, they can specify, impose or limit common law rights and duties, such as the notice to be given to employees upon termination and restrictions regarding an ex-employee's ability to compete with the business.

An employer's responsibilities towards the government are to ensure that certain remittances are made on behalf of employees. An employer must deduct income tax,

Canada Pension contributions, and Employment Insurance premiums from the amounts paid to employees. These amounts must be sent in along with the employer's own share of these contributions and premiums that must be paid on behalf of employees. As an employer, one holds the payroll deductions in trust for the Receiver General. The amounts must be kept separate from the operating funds of the business, so that in the case of bankruptcy, these amounts will not form part of the estate. If the employer fails to deduct these amounts, the employer can be liable for the full amount, or may be fined or imprisoned.

Employees are often an important asset of a business. With proper attention to labour standards, a well defined employment contract and attention to government requirements, an expanding company can effectively integrate new employees to benefit the business.

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