Submission to the Standing Committee on Social Policy relating to Bill 27, Working for Workers Act, 2021

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President
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CUPE Ontario

The Canadian Union of Public Employees (CUPE) Ontario is the largest union in the province with more than 280,000 members in virtually every community and every riding in Ontario. CUPE members provide services that help make Ontario a great place to live. CUPE members are employed in five basic sectors of our economy to deliver public services: health care, including hospitals; long-term care and home care; municipalities; school boards in both the separate and public systems; social services; and post-secondary education.

CUPE members are your neighbours. They provide care at your hospital and long-term care home. They deliver home care for your elderly parents. They collect your recyclables and garbage from the curb. They plough your streets and cut the grass in your parks and playgrounds. They produce and transmit your electricity, and when the storm hits in the middle of the night, they restore your power. CUPE members teach at your university and keep your neighborhood schools safe and clean. They take care of your youngest children in the child care centre and make life better for developmentally challenged adults. They protect at-risk children as well as those struggling with emotional and mental health issues.

Our members do this work every day, and as a collective experience it equips us to make a positive and informed contribution to the discussions around the provincial finances and the priorities of Ontarians. We support the development of vibrant, healthy communities and strong local economies, and part of this can be realized through investments in people and public services.

Overview

The Government has stated that its proposed changes in Bill 27, *Working for Workers Act, 2021* reflects the advice and recommendations of the Ontario Workforce Recovery Advisory Committee established in June. At the time this committee was struck, CUPE Ontario, along with most of the labour movement, informed the government that the committee composition was deeply flawed because it lacked labour representation. Unfortunately, our warnings proved to be prescient as the bill in front of us reflects that critical deficiency.

Much of this bill seems designed to grab positive headlines for this government and not much else as it will not materially impact the lives of workers. The exception is the changes proposed for the Workplace Safety and Insurance Board (WSIB) which will impact workers for the worse.

The last major overhaul of labour law was initiated in 2015 with the Changing Workplaces Review and culminated in Bill 148, *Fair Workplaces, Better Jobs Act, 2017*. While far from perfect, Bill 148 was the result of two years of consultation and study, and ultimately bettered the lives of workers in Ontario. Many groups, including CUPE Ontario, participated in the numerous public consultations. While Bill 148 was a positive step, the Liberals shamefully used it as a wedge issue to drive votes for an election that was six months away.

When this government came into power one of its first acts was to undo the changes to the labour law of the previous government with Bill 47, *Making Ontario Open for Business Act, 2018*. Bill 47 signalled a clear message that the Conservatives were not interested in helping the working class. Yet now, six months away from an election, this government made a slight pivot away from its anti-worker mentality and presented Ontarians with Bill 27, *Working for Workers Act, 2021*. While pro-worker talking points from this Conservative government are appreciated, it is clear that the workers of Ontario will still be substantially worse off than when this government came into power almost four years ago.

Whether it is the Liberals or the Conservatives, playing election football with the working lives of the people of Ontario is shameful. We deserve not to be used as pawns in election strategies. The laws governing the working lives of people should be above politics, especially in a socio-economic context in which half of all Ontarians are $200 or less away from meeting their bills.[1]

As CUPE Ontario has outlined in our multiple submissions to the Changing Workplaces Review, Bill 148, and Bill 47, the changes to labour law that would help lift up the people of Ontario are not difficult to understand. There are basic and common-sense changes that would substantially benefit workers. We have provided these changes for the government to review in the appendix. We hope that these changes are seriously considered.

We fully endorse the submissions to Bill 27 by the Ontario Federation of Labour, Ontario Network of Injured Workers Groups, and the joint submission made by Migrant Workers' Alliance for Change, Workers' Action Centre and Parkdale Community Legal Services.

[1] https://mnpdebt.ca/en/resources/mnp-debt-blog/mnp-consumer-debt-index-update--october-2021-3-minute-debt-break

Schedules of Bill 27

Schedule 1 & 2 – Licensing Requirements for Temporary Help Agencies and Recruiters.

The rampant abuse and violations of the Employment Standards Act (ESA) by temporary help agencies and recruiters is supported by the racial capitalism of our labour laws. The precarity that many of these overwhelmingly racialized workers find themselves in, does not stem from these workers not working their "tail off" as Premier Ford has stated.[2] Instead, it is a textbook legislative example of the "systemic, deep roots" of racism that Premier Ford denies exist.[3] It is not novel to state that if the majority of these workers were white this exploitation and trafficking would not occur. Ontario's long history of looking the other way to these abuses for racialized workers must end.

As noted above, we endorse the joint submission to Bill 27 made by Migrant Workers' Alliance for Change, Workers' Action Centre and Parkdale Community Legal Services. We strongly encourage the government to institute the changes recommended in their submission. The recommendations from these organizations come from a deep understanding and connection with workers who are exploited by these policies and systems.

While some of the legislative changes in schedule 1 and 2 of the bill are a step in the right direction, further changes to strengthen the licensing regime must be made.

Licensing of Recruiters

Employer Liability – Bill 27 requires employers of foreign nationals to use recruiters who have obtained a license. However, it does not hold employers liable against illegal recruitment fees.

Recommendation: Employers must be held liable to ensure that they use recruiters who do not charge recruitment fees.

Security Deposit – A licensing system must have some means of ensuring adherence to labour laws and must also provide a monetary penalty for those who are not in compliance. Bill 27 states that a Director may prescribe a security deposit and does not specify the amount.

Recommendation: The bill should be amended to state that recruiters will be required to provide a security deposit and the minimum rate should be set at $25,000.

[2] https://youtu.be/VvwBJUH4DNM
[3] https://youtu.be/lwF1x0_nT44

Deterrence – The deterrence measures set out in the bill are wholly inadequate and for many unscrupulous employers it will simply end up as a cost of doing business. Strong deterrence measures must be established and publicized to ensure efficacy of a licensing regime.

Recommendation: A minimum fine of $15,000 for employers failing to use a licensed agency directly or indirectly.

Employer registry – All but one province that institutes a licencing regime for recruiters requires employers who use these services to register with the province. Registration aids in a variety of ways, including making employers aware of their legal responsibilities when using contractors and migrant workers; cross referencing employment standard claims or health and safety practices before an employer registers and employs migrant workers; and creating a database of employers who use recruiters would aid in conducting inspections.

Recommendation: Establish a mandatory registry of employers who use the services of licenced recruiters.

Enforcement – A long standing problem of recruitment agencies is their ephemeral nature and ability to shut down and restart under new ownership or name. Paralleling that problem is the precarity of migrant workers, which creates conditions in which they are not confident that reporting violations will mean they will lose their jobs and other harms. Fearing retribution, migrant workers ability to provide evidence of violations is obstructed.

Recommendation: Recruiter licences should not be transferable. If a change in ownership occurs, a new licence should be obtained.

Recommendation: Anonymous complaint process must be available to migrant workers and the burden of proof should lie with the recruiters.

Licensing of Temporary Help Agencies

Many of the same issues of noncompliance of the Employment Standards Act (ESA) that are present in the licensing of recruiters are also present in the licensing of temporary help agencies. Relying on adherence to labour laws through a compliance-based model is insufficient because of the precarity of temporary agency workers. Precarious workers at not likely to demand their rights when doing so could jeopardize their income.

Recommendation: The bill should be amended to state that recruiters will be required to provide a security deposit and the minimum rate should be set at $25,000.

Recommendation: A minimum fine of $15,000 for employers failing to use a licensed agency directly or indirectly.

Recommendation: Anonymous complaints must be allowed by migrant works and the burden of proof should lie with the recruiters.

Schedule 2 – Disconnecting from Work

Bill 27 would require employers with 25 or more staff to establish a policy of "disconnecting from work" which is defined as "not engaging in work-related communications, including emails, telephone calls, video calls or the sending or reviewing of other messages, so as to be free from the performance of work."

The proliferation of laptops, smartphones, digital platforms and apps has allowed many employers, via wage and time theft, to extract additional work of their employees to increase profits. This theft is increasingly common as Statistics Canada found that before COVID-19, "30% of employed Canadian Internet users reported that their employer expected them to use the Internet to stay connected outside of their regular work hours."[4] These additional hours of work have consequences; the World Health Organization (WHO) has found "long working hours led to 745,000 deaths from stroke and ischemic heart disease in 2016, a 29 per cent increase since 2000".[5] The WHO also found that long working hours are also "responsible for about one-third of the total estimated work-related burden of disease" invariably causing a rise in workers compensation claims.[6] Workload, worker fatigue, and an extension of the working day demand legislation that will help course correct in favour of work-life balance.

Unfortunately, the requirements in the bill for employers to establish disconnecting from work policies are deeply inadequate. They fail on a few important counts. First, a requirement for an employer to have a policy, with no parameters or requirements, does not translate to employers actually creating a policy. Similarly, this bill lacks an enforcement mechanism, which disincentivizes legislative adherence. It is also important to note that under current law, all non-managers in Ontario already have hours of work and overtime protections. Unfortunately, managerial demands often mean these protections are not adhered to.

[4] https://www150.statcan.gc.ca/n1/daily-quotidien/191029/dq191029a-eng.htm
[5] https://www.who.int/news/item/17-05-2021-long-working-hours-increasing-deaths-from-heart-disease-and-stroke-who-ilo
[6] Ibid.

Recommendation: Workers must have a job-protected right to disconnect along with safety from employer reprisal.

Schedule 5 – Washroom Access

Bill 27 would require the owner of a workplace to provide a washroom to delivery workers as requested. As a bare minimum, this is a positive step considering the increasing number of gig workers. Unfortunately, the bill allows for many exemptions, notably that washroom access need not be provided if it would "not be reasonable or practical." This exemption is exceptionally ambiguous and wide and should be removed.

Providing washroom access to delivery and gig workers barely begins to address the needs particular to this type of work. The pandemic highlighted the pivotal role gig workers play in keeping Ontario moving yet these workers are often denied the rights afforded most workers. Gig Workers United has created a Bill of Rights that speaks to these specific needs. We echo these demands and encourage the government to enact these points in legislation[7]:

1. A worker is a worker; Full employment rights with no carve-outs from minimum wage, sick leave, vacation pay and other minimum employment standards.

2. Payment for all hours of work: Paid time from when workers sign in until they sign out of the app with a clear and concise breakdown of how pay is calculated.

3. Compensation for necessary work-related expenses to ensure gig workers' real wages are not reduced below the minimum wage.

4. Full and equal access to regulated benefits programs like Employment Insurance (EI), Canada Pension Plan (CPP) and injury compensation (WSIB).

5. Data transparency: Access to all data collected and how the algorithm affects workers, including any forms of discipline.

6. Make all work count: Gig work must count towards Permanent Residency applications.

7. Put onus on employers to prove that workers are not employees instead of workers proving that they are not independent contractors. Enshrine a clear test for employment status.

[7] https://gigworkersunited.ca/gig_workers_bill_of_rights.html

8. Recognize gig workers' right to form a union, with the union they choose, to have a collective voice at work.

9. Workers must have the right to negotiate for livable wages and benefits with their employer. Real, worker-led sectoral bargaining to enable meaningful collective bargaining to raise industry standards.

10. An end to arbitrary deactivations and fair compensation for glitches: Just cause protection against deactivation, access to a clear and free process and enforcement mechanisms for minimum standards. Compensation for technical issues on the platform's end.

Schedule 6 – WSIB

CUPE Ontario is uniquely positioned to speak to the proposed changes regarding the Workplace Safety and Insurance Board (WSIB). In addition to being the largest union in the province where our 280,000 members rely on the WSIB, we also represent 3,400 WSIB employees who are members of CUPE Local 1750. As a result, this gives us a keen insight from the perspective of users of WSIB services and WSIB service providers.

The proposed changes in Schedule 6 of Bill 27 will undoubtedly impact workers in this province for the worse. It is important to view these legislative changes to weaken workers compensation as part of the long-standing effort to dismantle the social safety net. While the bill is the product of the Ford Conservative government, the dismantling of the social safety net began years ago, when the Conversative party decided its reason for being was to minimize the role of government and the Liberal party aided by granting legitimacy to that agenda.

Schedule 6 proposes to reduce WSIB premium rates by $168 million, which, if enacted, will be the sixth time they have been reduced in six years. The schedule also proposes to allow the WSIB to distribute money back to employers when the fund reaches a 115% surplus and demands funds be distributed back to employers when the surplus reaches 125%. As of March 31, the fund sits at 119%, meaning that if the bill is passed the WSIB could give employers back over $1.2 billion in premiums which is $1.2 billion less to pay claims.

Drawing down the surplus is staggering considering the history of unfunded liability of the WSIB. When contrasting the decades of unfunded liability of the WSIB against a surplus which only came to fruition slightly over 24 months ago, this distribution of premiums back to employers seems imprudent and reckless.

The harsh realities of COVID-19, which saw industries stand still, increased rates of unemployment and a large number of deaths, should have signalled to our government their need to prepare for the worst, yet this has not seemed to inform the governments actions. The majority of the people in Ontario will spend one-fifth to one-third of their lives in paid employment, and once a work-related injury occurs, the need to get back to full health is urgent.[8] Full and active employment is critical for many conceptions of self-worth and the economic stability it provides has implications for housing, adequate nutrition, and overall well-being.

Despite the clear need for a robust WSIB funding, the provincial government's proposal to further reduce the fund is both unwise and out of step with what is happening in other jurisdictions. Based on the latest data from Association of Workers' Compensation Boards of Canada (AWCBC), the average funding ratio of workers compensation funds across Canada is 125%, which is 600 basis points higher than the WSIB. While the average surplus across Canada is substantially higher than Ontario, there does not seem to be a collective rush from other provincial governments to replicate Ontario's hasty plan to distribute funds back to employers.

The surplus itself is a dramatic change in fortune from the decades of the WSIB's unfunded liability. As the Injured Workers Community Legal Clinic (IWC) laid out in detailed letter dated August 10, 2021 to the Ministry of Labour, this unfunded liability was created by artificially low premiums for employers, and it was paid for by a reduction in benefits for injured workers.[9]

Since its creation in 1914, workers compensation has been regarded as a 'Historic Compromise' where workers gave up their right to sue in exchange for fair and quick compensation for as long as the disability lasted.

Unfortunately, this historic compromise has been compromised.

While the official denial rates of claims have been more or less static over the last decade, according to the latest data from AWCBC, Ontario manages to pay the second least in benefit cost per $100 of assessable payroll across Canada.[10] As the IWC notes in its letter, a variety of tactics have been used to bring down costs, including: deeming; an exceptionally high denial rate for mental stress claims[11]; denial of occupational disease clusters; dramatic reduction in non-economic loss benefits; and claim suppression.

[8] https://pdxscholar.library.pdx.edu/open_access_etds/4831/
[9] https://injuredworkersonline.org/wp-content/uploads/2021/08/IWC_Submission-WSIB_Surplus_2021.pdf
[10] https://awcbc.org/en/statistics/ksm-annual-report/
[11] According to a recent Toronto Star report, the WSIB denied 94% of chronic mental health claims https://www.thestar.com/news/gta/2018/12/04/workers-compensation-board-denies-over-90-per-cent-of-chronic-mental-stress-claims-audit-shows.html

Paying the second least in benefit cost is no doubt a function of the well-below-average premium rate that Ontario charges. While the average rate across Canada was $1.70, Ontario charged $1.37, and this bill will drive rates lower to $1.30.[12]

Ontario has another unfavourable distinction of offering one of the lowest WSIB coverage rates in the country. The average workers compensation coverage rate across Canada is 88% compared to Ontario's coverage of 78% of the workforce which is the third lowest in the country.[13] Ideally, Ontario should legislate universal coverage, which will benefit numerous workers including Personal Support Workers and Developmental Support Workers which have been on the front lines of the COVID-19 pandemic.

A reduction in rates and surplus will further entrench the practice of not allowing revenues to be adjusted according to the total cost of benefits, but instead exerts political pressures to require that benefits should be adjusted with predetermined revenues. Ultimately, this will continue the under-compensation of injuries which simply transfers the cost onto workers and society at large.

Finally, it is essential that we bring an equity lens to the implications of Schedule 6. Data indicates that racialized workers disproportionately require workers compensation.[14] Research reveals that even when we account for factors like one's socioeconomic status, racialized workers are more likely to experience dangerous and unhealthy work conditions, thereby making them more vulnerable to injury on the job.[15] The efforts to weaken these benefits disproportionately harm racialized workers and cannot be understood outside of the larger socio-economic and political structures of white supremacy.

To dismantle the social safety net for workers, while providing billions to business owners, speaks to a central theme of this provincial government's policies: the neglect of the everyday worker and the further marginalization of those in our society who are the most precariously employed.

Recommendation: Remove Schedule 6 from Bill 27.

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[12] https://awcbc.org/en/summary-tables/assessments-premiums/provisional-average-assessment-rates/
[13] https://awcbc.org/en/statistics/ksm-annual-report/
[14] https://pdxscholar.library.pdx.edu/cgi/viewcontent.cgi?article=5903&context=open_access_etds
[15] https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6198680/

Appendix

Broaden card check certification to all sectors

The Supreme Court of Canada has ruled that the Charter of Rights and Freedoms includes the rights to join a union, collectively bargain, and strike. In order for these rights to be meaningful the legal framework regulating labour relations must facilitate the exercise of these rights. The LRA must actively remove barriers to joining a union. The best way to do this is to abandon the mandatory vote system, and return to a system of card based certification. The threshold for certification should be 55% of employees signing union membership cards, as it was under Bill 40.

The preponderance of evidence demonstrates that unionization drives are much more likely to be successful under card based certification regimes than under mandatory vote regimes. Mandatory vote systems give employers a far greater opportunity to interfere with the choices of workers, to engage in threats, intimidation, and fearmongering. Sometimes the tactics are subtle, but they are still very real. Mandatory vote systems act as a barrier to unionization, undermining workers' desire to join a union.

Employers will likely claim that votes are more democratic, and should be retained in the LRA. The logic behind such statements is fundamentally flawed. By signing a union card workers are in fact voting to join the union. A majority of workers signing cards means that the union has majority support. Forcing a second vote, and thereby giving the employer the opportunity to interfere in the process, is profoundly undemocratic, because fear and intimidation tactics can undermine the true wishes of workers.

If employers truly care about democracy in the workplace, they should allow workers to elect their supervisors, managers and bosses. Workers should have the power to vote on how to organize work, and how shifts are allocated. A fully democratic workplace would allow workers to vote on how to allocate profits, and what investments to make. Unless employers are really willing to accept workplace democracy their arguments about mandatory votes should be dismissed for what they are: a strategy to undermine workers' right to join a union.

As has been the case in previous iterations of the LRA, even when a system of card based certification has been implemented there should still be provisions to allow for unions to apply for a certification vote when they have cards signed by 40% of members of a proposed bargaining unit.

Provided successor rights for all sectors

Successor rights are a necessary protection for workers and their unions. The practices of contracting out, contract tendering, and contract flipping, are used by employers to u ndermine the democratic rights of workers to join and maintain unions, and undermine c ollective bargaining. In cases of contracting out, unions lose bargaining rights and worke rs lose their jobs. Successor rights will help protect vulnerable workers.

Allow for automatic access to first contract arbitration, including remedial certification

Employers regularly use obstructionary tactics to avoid reaching a first collective agreement and undermining the viability of newly certified bargaining units. The current LRA provides some access to first contract arbitration (FCA), notably when "employers refuse to accept the right of their employees to engage in collective bargaining." Access to FCA is not automatic, and employers are able to find ways to block the successful completion of bargaining without triggering FCA. Furthermore, workers who want to join a union might be deterred from unionizing if they fear that they will need to strike in order to get a first collective agreement.

FCA removes that barrier to unionization, and also facilitates the creation of mature bargaining relationships between unions and employers. Granting easier access to FCA can help reduce the likelihood of first contract labour stoppages by 50%. There is evidence to suggest that FCA is rarely used, even when made easily available. It is possible to conclude, therefore, that FCA encourages the parties to negotiate a settlement, and fosters the creation of stable collective bargaining relations between unions and employers.

It is all too common for employers to interfere with workers' rights to join a union. For an employer who engages in these practices, the benefits of contravention of the LRA are substantial. They can effectively prevent unionization, especially if they interfere in organizing campaigns relatively early. The consequences for such contraventions are insignificant compared to the potential benefit. In noting that the "OLRB does not often exercise its discretion to award remedial certification" the interim report highlights the problem. The LRA provides inadequate protection against employer interference.

The requirement to consider whether a second vote is likely to reflect the true wishes of employees acts as a barrier to utilizing remedial certification. It tends to lead to the requirement that a second vote be held, even in cases where it is clear that the employer has tainted the working environment to the detriment of the union. Removing this requirement will allow the OLRB more fully to remedy against unfair practices.

Requiring that the union prove that it has adequate support for the Board to order remedial certification is also a barrier to the full and proper use of this remedy. Employers who interfere with organizing campaigns early enough are rewarded for the unlawful behaviour when they are able to use intimidation to prevent the union from achieving "adequate support" (e.g. at least 30% of a prospective bargaining unit signing cards).

Provide early disclosure to workplace list when a union shows that it has the support of a majority of its membership

Workers who want to unionize their workplaces face a number of structural barriers to achieving this goal. One such barrier is the lack of information about how many other people are employed at their workplace, and how to contact them. Although this has always created difficulties, the problem is exacerbated when workers do not share the same physical space, or when they are not scheduled to work at common times.

Providing unions with access to employee lists with contact information would help remove this barrier to workers exercising their rights to unionize. Lists should be provided when unions can demonstrate that a bona fide organizing campaign has been initiated. Lists should be provided to the union within two days of the request (the time frame for providing a list of employees after an employer has received notice of an application for certification). The list provided by the employer should include the name, job title, department (if relevant), home address, phone number, and email address (if available). In exchange for the lists, unions would agree that this information would only be used for the purposes of organizing, and would not be used for any other purposes.

Reintroduce a general prohibition on the use of replacement workers
In the vast majority of cases collective bargaining is resolved without a labour disruption. As the interim report notes, employers use replacement workers in only a small minority of cases of a strike or lockout. Introduction of a general prohibition on replacement workers therefore would not create a disruption in the labour relations field.

A prohibition on replacement workers would, however, provide greater security to unionized workers. As many have noted, the use of replacement workers increases the risk of violence on picket lines, prolongs the duration of strikes and undermines the integrity of the collective bargaining process. Additionally, use of replacement workers makes more conflictual the ongoing and necessary relationship between unions and employers after the end of a strike or lockout. In 1995 even some Police lobbied the government to maintain the prohibition on replacement workers because the provisions that existed during the NDP's government made their jobs safer.

Eliminate the six-month restriction on the right of employees to return to work following a lawful strike or lockout

Removal of the six-month timeframe would eliminate pressure felt by striking or locked-out workers. The provision, as it stands, is an encouragement to strikers to apply to return to their job and abandon the strike for fear that they cannot make an application to return after the six-months have passed. While it does not force workers to end their strike, it does provide incentive to some to return to work. Eliminating this timeframe would allow workers to decide on how long to engage in strike action, free from economic coercion.

Raise the minimum wage to $20 an hour for all workers

There is a strong relationship between minimum wage and vulnerability. The minimum wage is also related a poverty reduction strategy and eliminating the gender wage gap. Far too many workers live in poverty. Raising the minimum wage to $20/hour would help to alleviate that. Women make up a disproportionate number of low wage workers. Increasing the minimum wage to $20/hour would be a step towards pay equity. Other marginalized workers, including Aboriginal people, racialized workers, and young workers, are also overrepresented in low wage occupations. Increasing the minimum wage to $20/hour would promote equality across the board.

Provide 10 days of paid personal emergency leave for all workers and remove the requirement to provide a doctor's note

All workers deserve to have paid sick leave. Gaining and protecting this right is a bargaining priority for all of our locals, and we have had significant success at ensuring that our members have access to paid sick time. Paid sick time should be extended to all workers, regardless of whether or not they have the protection of a collective agreement. All workers will eventually get sick and require time off. They should not have to risk losing income in order to take time to recuperate. Nor should the threat of lost income incentivize them to go to work when ill where they could potentially make others ill. Paid sick time is particularly important for vulnerable workers who are least likely to be able to afford unpaid time off. The World Health Organization has documented the importance of paid sick leave for worker productivity and disease control, particularly in light of COVID-19.

We support the proposal to allow workers to accrue paid sick leave at the rate of one hour of paid sick time for every 35 hours worked. There should be no cap on the amount of sick time accrued. This formula takes into account differences between full-

time and part-time employees, and prorates the benefit based on actual hours worked. This rate would give approximately 7 days of paid sick leave to someone who worked 35 hours per week for 50 weeks of the year (accounting for 2 weeks of vacation time).

With regard to sick notes, we agree with the Ontario Medical Association that it is inappropriate to require medical documentation when an employee misses work due to illness. Forcing workers to go to a doctor to get a note prevents workers from resting and taking time to get well. It also puts a burden on the health system, taking doctors away from caring for other patients in order to produce documentation for employers.

Paid sick leave should be made available to all workers, in addition to the ten days of Personal Emergency Leave (PEL).

Reinstate equal pay for equal work legislation

The principle of equal pay is a human right. Discriminatory compensation structures based on sex, race, sexual orientation or ability need to be eliminated. This is a significant task given that this discrimination is often the result of systemic discrimination—where policies, practices or social norms affect the way employers value jobs where women and other equity-seeking groups are concentrated. Tackling this systemic discrimination will require a comprehensive plan, genuine commitment and long-term engagement.

It is critical to approach the gender wage gap with an intersectional framework that acknowledges that multiple social locations—class, gender, ethnicity, citizenship and ability—can result in related systems of discrimination or oppression.

Reintroduce scheduling provisions

Scheduling legislation has allowed employers to engage in a number of practices that increase worker vulnerability and precarity. The flexibility afforded to employers over scheduling has been at the expense of workers' certainty over how many hours they will work from day to day or week to week. Employer flexibility over scheduling means that workers cannot have any certainty over when they will have to be at work, and when they will have their own time to take care of their own needs (let alone have any real leisure time).

Providing employees with certainty over the amount of work for which they will be scheduled can be accomplished, in part at least, by enacting ESA provisions that are akin to the San Francisco Retail Workers Bill of Rights. For example, giving employees at least 2 weeks of advance notice of shifts will help workers plan for their lives outside of the workplace, including child care and education plans. Paying employees more for last-minute shift changes will give incentives to employers to maintain schedules once they have been issued. Requiring employers to provide additional hours to part-time workers who want them before hiring new employees will give greater opportunities for full-time work, when workers desire it.

Employers also need to face limits in their ability to use on-call shifts, split shifts, or end shifts early. Increasing the minimum reporting time to four hours at regular pay would help with this. But there will also need to be additional limits on the ability to use on-call shifts. Expecting workers to be on-call, without paying them for their time, is an unreasonable encroachment on workers' time. Workers accept these kinds of shifts because they need the job and the income that comes with it. Refusing on-call shifts can lead to termination, or fewer shifts being offered, increasing economic and employment uncertainty for workers. But there is no guarantee that an on-call shift will be used, and employees regularly find out on very short notice that they will not be scheduled that day. There must be a prohibition on on-call shifts, or at the very least, employees must be compensated for 4 hours of reporting pay at their regular rate of pay for being available for an on-call shift.

The burden of proof must fall on an employer to prove a worker is not an employee

Misclassification of employees as independent contractors is a widespread problem. Employers gain a benefit from such a classification, in that they can avoid providing statutory benefits to workers, and can deny workers access to ESA and LRA protection. Whether the misclassification is deliberate or unintentional is irrelevant. The fact is, misclassification denies workers of their rights, and costs workers a significant sum of money in denied statutory benefits.

The most significant means by which misclassification can be rectified is through the establishment of a presumption that a worker is an employee, and assigning the employer the burden of proof in cases in which there is a dispute over the workers' status as an employee or an independent contractor. To further bolster this option, employers should bear the burden of adducing all relevant evidence with regard to the matter. Employers have control over the workplace, and have an obligation to keep all relevant information about all employees and contractors who provide work for them.