

## Human Resources Legislative Update

### MOL's ESA Guide Update for Equal Pay Provisions

**Date:** April 2, 2018

We recently reported on the coming into force of the equal pay for equal work changes under Bill 148, [Reminder: Equal Pay for Equal Work Provisions in Force April 1, 2018](#).

The Ministry of Labour has recently updated its online [Guide to the Employment Standards Act, 2000](#) (Guide) to address equal pay for equal work as it relates generally and specifically to [temporary help agencies](#). The Guide generally describes the Ministry's views on how the provisions should apply in terms of assessing whether jobs are "substantially the same" with "substantially the same skill, effort and responsibility" and similar "working conditions." It also addresses the exceptions where differences in rate of pay are permitted due to a seniority system, a merit system or a system that measures earnings by production quantity or quality.

These exceptions are not referenced in the provisions that relate to employees of temporary help agencies. However, the broader exception of "any other factor other than sex or employment status" does apply to all employees. The Ministry doesn't offer any examples or guidance on how the general exception will be applied other than to recommend that "employers may wish to ensure that the factor is transparent, based on objective and measurable criteria, and applied equally to employees of all sexes and employment status."

The Ministry's Guide is not a legally binding interpretation of the Act, but it does provide some insight as to how the Ministry will be applying the new provisions.