**Disconnecting from Work Checklist**

This checklist covers the basic requirements of the disconnecting from work policy, including the following:

[**The Requirement to Have a Policy**](#_Toc97611784)

[**Policy Scope and Content**](#_Toc97611785)

[**Changes to the Policy**](#_Toc97611786)

[**Withdrawal or Retention of the Policy**](#_Toc97611787)

[**Document Retention**](#_Toc97611788)

| **No.** | **Questions** | | **Yes/No** |
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| The Requirement to Have a Policy | | | |
|  |  | Have you assessed employee headcount as of January 1, 2022?  A “No” answer means non-compliance with the ESA requirement to assess employee headcount by January 1, 2022, to determine whether or not the organization needs a disconnecting from work policy. |  |
|  |  | Do you employ 25 or more employees as of January 1, 2022?  If yes, you need a written disconnecting from work policy in place by June 2, 2022, and the rest of this checklist will apply.  If the answer to this question is “No,” you do not need a written disconnecting from work policy at this time and do not need to complete the rest of this checklist.  However, the [**Director of Human Resources**] should mark the HR calendar to complete another assessment on January 1, 2023. (See question 3 below.) |  |
|  |  | Do you employ 25 or more employees as of January 1, [**2023**]?  If the answer to this question is “Yes,” the organization needs to have a written policy in place before March 1, [**2023**], and complete the rest of this checklist.  If the answer to this question is “No,” re-perform this assessment on January 1 of every successive year. Mark calendars so that the organization does not forget. |  |
|  |  | Has the [**Director of Human Resources**] marked the HR calendar to re-perform the assessments above on January 1 of each year? |  |
|  |  | Does the employee count include all relevant employees?  In assessing whether the organization meets the 25-or-more employee threshold:   * Multi-location employers should include employees working at all the different locations even if any location has less than 25 employees. * Assess whether two or more employers may be treated as one under the ESA. * Exclude temporary employees that a temporary help agency provides. The temporary help agency will include such employees in their own assessment of headcounts, regardless of whether those employees are active or inactive. * Count unique individuals, not full-time equivalents (FTEs). Each part-time or casual employee counts as one employee regardless of their FTE. |  |
| Policy Scope and Content **(A “No” answer to any of the following questions may indicate non-compliance)** | | | |
|  |  | Does the disconnecting from work policy cover every employee regardless of their status, FTE or work arrangement?  This assumes that the organization has a single disconnecting from work policy.  The policy must cover all employees, be they homeworkers, probationary employees, directors and officers who work for wages, employees hired for fixed tasks or terms of any length, employees on lay-off if their employment was not severed or terminated, employees on leaves of absence, strike or lockout, some trainees and employees who may be exempt from other sections of the ESA. |  |
|  |  | Does the policy include the date the policy was prepared? |  |
|  |  | Has each existing employee received a copy of the policy within 30 calendar days of the date the policy was prepared? |  |
|  |  | Has the organization provided each new hire with a copy of the policy within 30 calendar days of the employee’s start date? |  |
|  |  | Has the organization provided the policy to employees in an appropriate format?  For example, the organization may provide the policy in hard copy, or attached to an email or posted to the intranet so that the employee can print it. If the organization does not provide the policy in hard copy, it must ensure that employees have access to a printer and know how to use it. |  |
|  |  | Has the organization assessed whether the right to disconnect policy provides a greater right or benefit than the ESA?  If the answer to the above is “No,” the organization should make this assessment.  The organization should remain alert to instances where the disconnecting from work policy provides greater benefits or rights than the ESA requires—the greater rights and benefits are enforceable at common law and, as explained below, under the ESA.  One potential area where the right to disconnect policy or contract may provide greater rights and benefits than those available under the ESA relates to standby hours and when the [Exemptions, Special Rules and Establishment of Minimum Wage, O Reg 285/01 (O Reg 285/01)](https://canlii.ca/t/rvq) deems work to be performed. For example, under section 2(b) of O Reg 285/01, employees are not performing work if they are not at the place of employment and are waiting or holding themselves ready for a call to work.  Consequently, if the policy, collective agreement or employment contract provides greater rights than the ESA, the policy may be enforceable under the ESA. If this policy does not provide greater rights than the ESA, the policy may not be enforceable under the ESA. |  |
|  |  | Have you provided the policy to employees in the proper format?  For example, the organization may provide the policy in hard copy, attached to an email, or posted to the intranet so that the employee can print it. If the organization does not provide the policy in hard copy, it must ensure that employees have access to a printer and know how to use it. |  |
| Changes to the Policy | | | |
|  |  | Have there been changes to the disconnecting from work policy?  If yes, employees must receive an updated copy of the policy, and other requirements apply. If there are no changes, there is no need to provide an updated policy. |  |
|  |  | Does the policy reflect the date the change was made?  “No” means non-compliance with ESA requirements. |  |
|  |  | Have you provided all existing employees with a copy of the revised policy within 30 days of changing the policy?  “No” means non-compliance with ESA requirements. |  |
|  |  | Have you provided each new hire with a copy of the changed policy within 30 calendar days of the employee’s start date?  “No” means non-compliance with ESA requirements. |  |
| Withdrawal or Retention of the Policy | | | |
|  |  | Are you planning to withdraw an existing policy, reinstate a previously withdrawn policy or implement a policy for the first time because of changes to the employee headcount after January 1 of a calendar year?  If “Yes,” assess whether implementation, reinstatement or withdrawal of the policy is necessary under the ESA. The relevant date to determine whether the ESA requires the organization to have a policy is January 1—no other date during the calendar year. If that determination was performed accurately, there is no ESA requirement to change a decision made on January 1 to implement, reinstate or withdraw a policy, even if the headcount changes thereafter.  Even if there is no requirement to have a policy under the ESA, the organization may prefer to have the policy as a best practice. |  |
| Document Retention **(A “No” answer may indicate non-compliance)** | | | |
|  |  | Have you retained a copy of the disconnecting from work policy for at least three years after the policy is no longer in effect? |  |