

**From the Ontario *Employment Standards Act, RSO 1990 in effect during the Bill 40 Years*
(approximately 1992-1994)**

Part XIII.2

Successor Employers

56.3 In this Part,

"previous employer" means the employer who ceases to provide services at a premises;

"successor employer" means the employer who begins to provide, at the premises, services substantially similar to those provided at a premises by the previous employer.

56.4-(i) This Part applies if one employer ceases to provide particular services at a premises after the 4th day of June, 1992 and another employer begins to provide substantially similar services at the premises.

(2) This part does not apply if the previous employer sells to the successor employer the business of providing the services at the premises.

(3) In this section, "services" means services provided directly or indirectly by or to a building owner or manager that are related to servicing the premises, including building cleaning services, food services and security services but excluding the following:

1. Construction.
2. Maintenance other than maintenance activities related to cleaning the premises.
3. The production of goods other than goods related to the provision of food services at the premises for consumption on the premises.

56.5-(1) This section applies to a manager or owner of a premises who,

- (a) ceases to provide particular services at the premises and uses another employer to provide them;
- (b) ceases to use an employer to provide particular services at the premises and uses another employer to provide them; or
- (c) provides particular services at the premises after ceasing to use another employer to provide them.

(2) The owner or manager, as the case may be, shall notify the employees of the previous employer of the date on which the previous employer ceases to provide the services at the premises.

(3) The notice must be given in writing at least fifteen days before the date on which the previous employer ceases to provide the services.

56.6-(1) If a successor employer replaces a previous employer who is providing services at the premises, the successor employer shall make reasonable offers of available positions to those persons,

- (a) who are in a continuing or a recurring and cyclical employment relationship with the previous employer immediately before the **successor** employer begins providing the services at the premises; and
- (b) whose principal place of work with the previous employer is the premises affected by the change in the employer providing the services.

(2) The **successor** employer shall make offers to the persons employed by the previous employer in descending order of each person's seniority with the previous employer until all positions are filled.

(3) The **successor** employer is not required to offer positions to persons who are not qualified to perform the services required of them or would not become qualified to do so with a reasonable period of training.

(4) The **successor** employer shall use every reasonable effort to fill all positions at the premises with persons who are employed by the previous employer before the **successor** employer offers a position to any other person.

(5) The position offered must consist of performing, at the same premises, the same work that the person did for the previous employer, if such a position is available.

(6) If such a position is not available, the position offered must consist of alternative work that is

comparable having regard to compensation, hours and schedule of work, prerequisites, quality of working environment, degree of responsibility, job security and possibility of advancement.

56.7-(i) For the purposes of Parts VII, VIII, XI and XIV, a person employed by the previous employer who accepts a position offered by the **successor** employer is deemed to have been employed by the **successor** employer for the period during which he or she was employed by any previous employers.

(2) In subsection (1), "previous employers" includes only the employer who employs the employee of the 4th day of June, 1992 and any **successor** employers who employ him or her before the **successor** employer referred to in subsection (1).

56.8-(1) A person who declines a position offered by the **successor** employer under section 56.6 and who ceases to be employed by the previous employer is deemed, for the purposes of this Act, to have resigned his or her position with the previous employer.

(2) If the **successor** employer offers the person employment that does not begin immediately after his or her employment with the previous employer ends and the person declines the offer, the person is not deemed to have resigned his or her employment with the previous employer and the **successor** employer shall comply with Part XIV.

56.9-(1) If the **successor** employer does not offer a position to a person employed by the previous employer, the **successor** employer shall comply with Part XIV.

(2) For the purposes of Part XIV, the **successor** employer, and not the previous employer, is deemed to have been the employer of the person.

56.10-(1) If an employment standards officer finds that the successor employer failed to offer a position to a person when the successor employer was required to do so under section 56.6, the employment standards officer shall determine whether the person to whom the offer should have been made has suffered a loss of wages and other employment benefits as a result of not receiving the offer and, if so, shall determine the amount of the loss.

(2) An employment standards officer who finds that a job offer made by the successor employer is not a reasonable offer shall determine whether the person to whom the offer was made has suffered a loss of wages and other employment benefits as a result and, if so, shall determine the amount of the loss.

(3) The amount of the loss continues to accumulate until the successor employer makes a reasonable offer of employment to the person, until the person is reinstated or until the person notifies the successor employer in writing that he or she no longer wishes to receive an offer, whichever occurs first.

(4) The amount determined to be the loss shall be deemed, for the purposes of this Act, to be wages owing to the person by the successor employer.

(5) A person who may have suffered a loss of wages and other employment benefits is deemed to be an employee of the successor employer for the purpose of pursuing remedies under sections 65, 66, 67 and 68 against the successor employer.

(6) If the successor employer offers a position to the person after an employment standards officer makes a finding under this section against the successor employer and the person to whom the offer is made declines it, the successor employer shall comply with Part XIV.

(7) For the purposes of Part XIV, the successor employer, and not the previous employer, is deemed to have been the employer of the person.

(8) The amount of the successor employer's obligations under Part XIV is calculated using the wage rate earned by the person while he or she was employed by the previous employer.

56.11-(1) Upon request, an employer providing services at a premises shall give the owner or the manager of the premises the following information about the employees who are providing the services:

1. A job description for each of the positions held by the employees.
2. The wage rates for each position.
3. The number of persons employed in each position at the premises.
4. A list of persons employed in each position, each person's seniority, and their hours and schedule of work.
5. The name of each employee and his or her address as it appears in the employer's records.

(2) Upon request, the owner or the manager of the premises shall give the information described in subsection (1) about the employees who are providing the services at the premises on the request date,

- (a) to a person who becomes a successor employer providing the services; or
- (b) to the bargaining agent for employees to whom the owner or manager has

given notice under section 56.5.

(3) Upon request, the owner or the manager of the premises shall give the information described in paragraphs 1 to 4 of subsection (1) about the employees who are providing the services at the premises on the request date to a person who may become a successor employer providing the services but, in the information described in paragraph 4 of subsection (1), the names of persons employed in each position need not be given.

(4) A person to whom information is given under this section shall use the information only for the purpose of complying with this Part. (5) A person in possession of information given under this section shall not disclose it except as authorized by this section.

(6) The Lieutenant Governor in Council may make regulations,

- (a) requiring employers providing services at premises, or requiring owners or managers of premises, to give the information described in subsection (1) with the Ministry;
- (b) governing the filing of information required by regulations made under clause (a).

56.12 If a person fails to comply with the provisions of this Part, an employment standards officer may order what action, if any, the person shall take or what the person shall refrain from doing in order to constitute compliance with this Part and may order what compensation shall be paid by the person to the Director in trust for other persons.