



## **REMINDER: Electronic Monitoring Policy required by October 11, 2022**

September 30, 2022

Ontario employers that employ 25 or more employees must have an Electronic Monitoring Policy in place by **October 11, 2022**.

That Policy must be provided to employees by **November 10, 2022**.

Our [prior publication](#) discussed Bill 88, which amended the *Employment Standards Act* to require employers to provide their employees with Electronic Monitoring Policies. These policies must disclose to employees whether or not they are being monitored electronically by their employers.

The Ministry of Labour has released [guidelines](#) on how to implement Electronic Monitoring Policies.

### **Which employers must implement an Electronic Monitoring Policy?**

All employers that employ 25 or more employees as of January 1, 2022, must have a written policy on the electronic monitoring of employees in place by October 11, 2022.

In coming years, employers that employ 25 or more employees as of January 1<sup>st</sup> of that year must have an Electronic Monitoring Policy in place by March 1<sup>st</sup> of that year.

### **What should the Electronic Monitoring Policy say?**

The Electronic Monitoring Policy must state whether or not the employer electronically monitors its employees while they are working or when they are using the employer's devices. Electronic monitoring is not defined in the legislation or in the Ministry guidelines. Examples of electronic monitoring include GPS tracking, scanning employees' rates of work, and tracking the websites that employees visit.

If the employer *does* monitor its employees electronically, the Policy must include:



- A description of how the employer may electronically monitor its employees;
- A description of the circumstances in which the employer may electronically monitor employees;
- The purposes for which the employer will use the information gained from the electronic monitoring.
- The date the Policy was prepared and the dates any changes were made to the Policy.

### **Which employees must be provided with an Electronic Monitoring Policy?**

All employees must be provided with an Electronic Monitoring Policy. This also includes temporary employees who have been assigned to perform work for the employer.

An employer may choose to provide different policies to different employees if the level of electronic monitoring is not the same for each employee.

### **When must employees be provided with a copy of the Electronic Monitoring Policy?**

Employees must receive a copy of the Policy 30 days after the employer is required to have a Policy in place. In 2022, employees must receive a copy of the Electronic Monitoring Policy by no later than November 10, 2022.

### **How does this affect the employer's rights to collect and use information?**

The Electronic Monitoring Policy requires the employer to disclose how and for what purposes it will be collecting information.

The Electronic Monitoring Policy requirement does not limit an employer's right to use electronic monitoring information in any way it sees fit. The *Employment Standards Act* does not limit the employer's use of the information to the purposes stated in the Electronic Monitoring Policy.

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