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January 30, 2008

The Honourable Dwight Duncan  
Minister of Finance and Chair of Treasury Board/Management Board of Cabinet  
c/o Budget Secretariat  
Frost Building North, 3<sup>rd</sup> Floor  
95 Grosvenor Street  
Toronto, ON  
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Dear Honourable Duncan:

I would like to thank you for the opportunity to discuss issues and priorities for the 2008 Ontario Budget. The Workers Action Centre works directly with thousands of people who are struggling to survive in low-wage and precarious work. This is work that is mostly without benefits, without income stability and without protection from employers who violate our most basic labour standards.

Already living on the edge, people in precarious work are especially vulnerable to the economic slowdown that you are predicating in the coming year. Low wages and precarious work are key reasons why so many Ontarians are working yet poor. But much can be done to move our province forward on a path that prioritizes productivity not low wages and effective labour market regulation for a strong economy.

Please find enclosed our submission on priorities for Ontario's 2008 Budget. If you have any questions, please do not hesitate to call me at 416-531-0778 ext 222.

Yours truly,

Deena Ladd  
Coordinator

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## **Fairness for Ontario Workers**

### **1) Introduction**

With sustained economic growth since taking office in 2003, the Liberal Government has invested in education, healthcare and competitive taxes for business. But economic growth and government priorities have left out the growing ranks of Ontario workers who struggle to get by in poverty.

One in four Ontario workers earns \$10 an hour or less. Over 650,000 Canadians work long hours but are still stuck in poverty. Nearly half of low-income children live with parents who work full time all year long yet they are unable to earn wages that can lift the family out of poverty. Between 1980 and 2000, the poverty rate for non-racialized populations fell by 28% in Toronto, but poverty among racialized families rose by 361%. In 2005, 76% of low-income two-parent families were working yet poor. As the United Way of Greater Toronto recently concluded, this is because of the rise of precarious, low-wage employment and inadequacy of the social safety net.

We increasingly live in a two-tiered labour market. There are those fortunate enough to have full-time jobs with good wages and benefits. Then there are the growing ranks, over 37%, who work for low wages with no benefits or protection. People are working at two or three part-time jobs, temporary jobs, contract work or those, who do the work of corporate employees, but who are misclassified as 'self employed.'

So precarious are many Ontario workers' lives that any downturn in the economy will thrust thousands into dire straights. The Finance Minister reports that Ontario faces a period of slowed economic growth. It is imperative that the Government prioritize comprehensive labour market measures to address persistent low wage economy, unregulated precarious work organization and effective enforcement of minimum labour standards for sound economic growth in the 2008/09 budget.

### **2) Fairness for Ontario Workers**

The Liberal Government should foster economic growth that is founded on the principle that a full time job must be a pathway out of poverty. Economic growth can and should be built by improving productivity not by reducing labour market wages and working conditions.

A century ago, labour subcontracting was known as the 'sweating system.' Today again, employers are using subcontracting as a key strategy to reduce labour costs, increase flexibility and shift employment liabilities down the chain of the 'sweating system' of production. As the layers increase, compliance with labour standards, wages and benefits go down. In highly competitive sectors, employers at the bottom are increasingly putting the costs of doing business on to workers who can least afford it.

These employment trends and practices were not envisioned when the *Employment Standards Act* (ESA) was developed in the 1960s. Many workers are deprived of employment rights, benefits and protection because their work arrangements do not conform to the standard employment model underlying labour standards, policies and practices. Historic exclusion of certain types of work organization from

regulatory protection has created incentives for employers to move workers into new forms of work, including:

- Using temporary employment agencies to indirectly hire workers for short and long-term employment;
- Outsourcing work that is considered low-skilled and labour intensive to intermediaries operating as labour leasers or contractors (such as credit card sales, phone and internet services or janitorial services);
- Nominal subcontracting, using intermediaries to “payroll” existing staff who overnight become employees of subcontractors;
- Misclassifying employees as independent contractors to treat them as exempt from labour laws (for example, employers tell sewing machine operators that they are self-employed); and,
- Shifting the costs of doing business onto misclassified workers (for example, telling cleaners who have no control over their work that they have to be incorporated as a company and must pay a fee to get work).

The unregulated temporary employment agency industry experienced a four-fold increase in revenues between the early 1990s and 2004. At the same time, temp agency workers make 40% less than permanent workers. Treated like second-class workers, temp agency workers are routinely denied statutory public holiday pay, vacation pay, termination notice or pay and many face fees for work assignments and barriers to permanent work due to contracts between temp agency and client companies. Temporary workers have higher rates of employment strain than do standard workers. This in turn leads to health problems with increased social costs. While wages for low-income earners stagnated through the 1980s and 1990s, average wages for part-time and temporary work declined.

Families, communities and the economy will benefit from a workforce that is less financially insecure and is based on more productive and engaged workers. Society will benefit from workers who are less at risk of health and social consequences of employment strain and less likely to require social assistance as an adjustment strategy during precarious work.

### **Recommendation #1:**

#### **Update Employment Standards to protect people in precarious work**

- **Expand employment Standards to include and protect people in precarious work**
- **Add a new section to the Employment Standards Act to protect temporary agency workers**

### **3) Fairness in Ontario workplaces**

As former Ontario Labour Minister Bentley correctly states, “(R)ights without remedies will not be rights for long. Remedies that are not used are not remedies at all.... a more effective approach to ESA enforcement is long overdue.”<sup>1</sup> This statement accompanied the promise of more inspections of

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<sup>1</sup> The Honourable Chris Bentley, Statement to the Legislature Regarding 60-hour Work Week, Queen’s Park, April 26, 2004

Ontario workplaces and prosecutions of employers who violate the law. But under-funding of proactive enforcement hampers any real improvements.

Employers have learned that they can break the rules without risk of detection or penalty. There is less than 1% chance that an Ontario workplace will be inspected by the Ministry of Labour to determine if minimum employment standards are being complied with. Employers are only really risk being caught if a worker files a complaint against them. Few do. With the power imbalance in the workplace, workers must put up with violations of their rights or leave the job – both are costs born by workers who can least afford it. Indeed, it is people in precarious work who are most at risk of violations of their rights to minimum wages, hours of work and other basic standards.

In the few cases where a claim proceeds against employers in violation of the law, the employer only has to pay the worker the wages that should have been paid in the first place. Unlike most other areas of the law, there is little consequence for breaking employment law. For example, in 2005-06 the Ministry found that employers violated workers rights in 11,358 claims totaling almost \$37 million in unpaid wages. Yet it only prosecuted four companies and two directors.

Over \$100 million in workers' wages that the Ministry ordered employers to pay went uncollected between 2001/02 and 2005/06. Wages largely go unpaid unless employers voluntarily agree to pay.

We all benefit from laws that establish minimum standards of employment. Workers that are treated fairly are more productive and healthy. Employers benefit when a floor of standards is enforced because a level playing field is provided so that employers who follow the law do not have to compete with substandard employers. Governments and taxpayers benefit because of less reliance on social programs.

## **Recommendation #2**

- **Commit resources to hire 100 employment standards officers to increase proactive inspections for employment standards violations. Commit resources to hire officers to inspect 25% of Ontario workplaces in 5 years.**
- **Commit resources to improve enforcement by expanding claims investigations to cover all employees when an employer violation has been confirmed.**
- **Increase and levy fines in all cases of confirmed violations of the Act.**
- **Repeat violations or non-payment of orders to pay must be prosecuted.**

## **4) Fair Wages for Ontario Workers**

Ontario's economy is increasingly becoming a low-wage economy. The median wage has stayed at \$10 for the past 20 years – even though cost of living has shot up 52% over the same period. Now full-time workers must earn over \$10 just to bring them to the poverty line.<sup>2</sup> While the Liberal government will

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<sup>2</sup> as determined by Stats Canada Low Income Cutoff

bring the minimum wage up to \$8.75 in March 2008, this is still over \$4,000 below the poverty line for a full-time worker<sup>3</sup>.

Persistent low wages are forcing people to work excessive overtime and juggle two or three jobs, just to get by. These same workers are also most likely to receive few benefits and face barriers to higher paid employment, leaving all too many in long-term poverty. It is women, immigrants and racialized communities that are disproportionately found in low-wage work.

In a just and fair society, people should be able to get a fair day's pay for a hard day's work. Minimum wage should be enough to bring a full-time worker above the poverty line.

### **Recommendation #3:**

**Set a principle of decency for Ontario's minimum wage. Set a goal to bring the minimum wage to the poverty level (LICO) and index the minimum wage to rise with inflation on an annual basis. Workers need a \$10.25 minimum wage in 2008.**

### **5) Employment Insurance**

Employment Insurance is failing to provide income support for workers in Ontario. Toronto has one of the lowest rates of access to EI in the country. The situation is worse for low-income workers; just 10% of all low-income households drew EI in Toronto. Restrictive eligibility requirements make it difficult for people in precarious work to get EI when they need it most. Low benefit rates create real hardship for workers and push people in precarious work from one sub-standard job to the next.

### **Recommendation #4**

**The Ontario government must press the federal government to reform the Employment Insurance program by decreasing entrance requirements to 360 hours for all workers (no new entrant category); remove the quit/fire exclusions; increase benefit rates; and, lengthen period of entitlement to enable meaningful training programs and job re-entry).**

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<sup>3</sup> Based on an individual in a large city working 40 hours a week at \$8.75 in relation to Stats Canada's 2006 Low Income Cut-off and 2.4% CPI.