



A practical guide to reducing human rights, ESA, and misclassification risk in your hiring process.

Hiring is one of the highest-risk activities in any organization. Well-intentioned employers can unknowingly create exposure during job postings, interviews, employment agreements, or onboarding.

This checklist is designed to help you identify risk points before they become claims.

Use this guide before your next hire.

Section 1 – Job Posting Compliance Check

✓ Job Description & Posting

- Does the posting focus on essential job duties rather than personality traits?
- Are physical requirements clearly tied to bona fide job requirements?
- Are qualifications necessary and defensible (not inflated)?
- Is compensation information transparent (if applicable)?
- Does the language avoid age, gender, family status, or cultural bias?

Human rights claims often originate at the job posting stage.

Section 2 – Screening & Interview Risk

✓ Resume Screening

- Are selection criteria documented before reviewing resumes?
- Are decisions based on job-related factors only?

✓ Interview Questions

- Are questions consistent across candidates?
- Are you avoiding questions about:
 - Family status or plans
 - Sexuality
 - Medical conditions
 - Disabilities
 - Age
 - Citizenship (beyond work authorization)
 - Religious practices
- Are you documenting interview notes objectively?

Inconsistent interviews are difficult to defend if challenged.



Section 3 – Employment Agreement Protection

This is where many small employers get exposed.

✓ Offer Letter & Agreement Review

- Does the agreement include ESA-compliant termination language?
- Is there a clear probation clause (if applicable)?
- Are overtime terms compliant?
- Is there compliant details on vacation pay and time?
- Is there a clear job details, duties and wages?
- Does the contract avoid language that contradicts ESA and common law?

Improper termination clauses can invalidate limitation language entirely.

Section 4 – Misclassification Check

- Are you correctly classifying employee vs independent contractor?
- Is there control over schedule, tools, and supervision?
- Are contractors working exclusively for you?
- Are you aware of WSIB classification implications?

Misclassification can trigger ESA pay back, CPP/EI issues, and WSIB exposure.

Section 5 – Background & Reference Checks

- Do you have candidate consent?
- Are you conducting checks consistently?
- Are you avoiding informal “back-channel” reference calls?
- If using police checks, is the requirement job-related?
- If using medical assessments, are the requirement job-related?

Section 6 – First Week Documentation

- ESA-required information provided
- Workplace Violence & Harassment policy acknowledged
- Health & Safety orientation completed
- AODA awareness & training provided (if applicable)
- WSIB coverage confirmed
- Payroll forms completed

Many compliance issues arise because onboarding documentation is informal or inconsistent.



Section 7 – 30-Day Risk Points

- Clear performance expectations communicated
- Training documented
- Early concerns addressed in writing
- Feedback conversation documented
- Probation timeline tracked

Early performance concerns that are not documented become risk later.

Section 8 – Self-Assessment Scoring

Give yourself:

- 1 point for every “Yes”
- 0 points for every “No” or “Unsure”
- Add your total score out of 36

● **Low Risk: 29–36 Yes Answers:** (80% or higher) - Your hiring and onboarding process is structured and largely defensible. You may still benefit from periodic reviews to ensure continued ESA compliance and updated contract language.

● **Moderate Risk: 18–28 Yes Answers:** (50–79%) - There are gaps in your hiring structure that may expose the organization to avoidable risk.

While not immediately critical, these gaps increase vulnerability if a termination, complaint, or human rights issue arises. Targeted improvements would significantly reduce exposure.

● **High Risk: 0–19 Yes Answers:** (Below 50%) - Your hiring and onboarding practices may create material legal and financial risk.

If you scored in the Moderate or High range, the risk is not that you are doing something intentionally wrong - it is that your process lacks structure. Structure reduces exposure. Clarity reduces stress.

What to Do If You Identified Gaps

If parts of this checklist created uncertainty, that’s common, especially for small-medium organizations without dedicated HR support.

An HR Hiring Risk Review provides:

- Review of your offer letter template
- Interview structure review
- Identification of compliance gaps
- Clear, practical recommendations

Book a 30-minute clarity call to discuss your hiring process and possible next steps.