

# **Significant changes to the *Occupational Health and Safety Act* to address workplace violence and harassment coming**

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## **A. INTRODUCTION**

The *Occupational Health and Safety Amendment Act, (Violence and Harassment in the Workplace), 2009*<sup>1</sup> received Royal Assent on December 15, 2009. The law will come into force on June 15, 2010, and will make a number of significant changes to the Ontario *Occupational Health and Safety Act*<sup>2</sup> (the “OHSA”). The purpose of the new legislation is to safeguard workers from workplace violence and harassment. The legislation designates workplace violence and harassment as occupational health and safety hazards under the OHSA and establishes new obligations for employers with respect to workplace violence and harassment prevention.

## **B. WORKPLACE HARASSMENT AND VIOLENCE DEFINED**

The new law defines “workplace harassment” and “workplace violence” as follows:

“workplace harassment” means engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome;

“workplace violence” means,

(a) the exercise of physical force by a person against a worker, in a workplace, that causes or could cause physical injury to the worker,

(b) an attempt to exercise physical force against a worker, in a workplace, that could cause physical injury to the worker.

(c) a statement or behaviour that it is reasonable for a worker to interpret as a threat to exercise physical force against the worker, in a workplace, that could cause physical injury to the worker.

## **C. NEW DUTIES ON EMPLOYERS**

The new legislation will require employers to:

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<sup>1</sup> S.O. 2009, c. 23

<sup>2</sup> R.S.O. 1990, c. 0.1

- ◆ Develop and communicate workplace violence and harassment prevention policies and programs to workers;
- ◆ Assess the risks of workplace violence, and take reasonable precautions to protect workers from possible domestic violence in the workplace;
- ◆ Allow workers to remove themselves from harmful situations if they have reason to believe that they are at risk of imminent danger due to workplace violence.

The prevention policies must be in writing and employers are required to review them at least once per year. The implementation of the workplace violence policy must include measures to control risks of workplace violence identified in the risk assessment, and to provide for summoning immediate assistance when workplace violence occurs or is likely to occur. With respect to workplace harassment, the policy must include procedures for workers to report incidents of harassment to the employer, and set out how the employer will investigate and deal with such incidents.

#### D. DOMESTIC VIOLENCE

The legislation requires employers to “to every precaution reasonable in the circumstances for the protection of the worker” if the employer becomes aware, or might reasonably to be aware, that domestic violence likely to expose a worker to physical injury may occur in the workplace. This amendment was controversial, in that in addressing domestic violence in the workplace it goes further than legislation in other provinces.

#### E. CONCLUSION

This legislation heightens employer duties to provide a safe workplace pursuant to section 25 of the OHSA. In preparation for the law coming into effect as of June 15, 2010, employers should be reviewing their workplace safety policies and practices accordingly to meet the requirements of the legislation. Employers who fail to do so may be found in non-compliance with the OHSA and may face orders, as well as significant fines and penalties.

A copy of the legislation, along with an Explanatory Note can be found at:

[http://www.ontla.on.ca/bills/bills-files/39\\_Parliament/Session1/b168ra.pdf](http://www.ontla.on.ca/bills/bills-files/39_Parliament/Session1/b168ra.pdf).

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