



## Publication

### TITLE

Workplace Violence and Harassment Legislation Passed - What Employers Need to Know

### AUTHOR(S)

[Richard Charney](#), [Mary Gleason](#)

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### EXPERTISE

[Employment and Labour](#)

Bill 168, which amends the *Occupational Health and Safety Act* with respect to violence and harassment in the workplace, received Royal Assent on December 15, 2009. It will come into force on June 15, 2010. The amendments introduce a new comprehensive approach to dealing with violence in the workplace. What follows is an overview of the new requirements.

### DEFINITIONS

Workplace harassment is defined as "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" is defined broadly as:

- 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.

### ASSESSMENTS

The amendment requires employers to undertake an assessment of the risks of workplace violence issues that could arise in their workplace. This assessment will have to take into account circumstances that are common to similar workplaces and circumstances that are specific to their workplace. Reassessments should be conducted as required to ensure workers are protected from workplace violence.

### POLICIES

For all workplaces with more than five regular employees, companies will be responsible for preparing policies which address workplace violence and workplace harassment. These policies must be in writing and will have to be posted in a conspicuous location in the workplace. The employer will also be responsible for reviewing these policies annually.

### PROGRAMS

#### VIOLENCE PREVENTION PROGRAM

In accordance with the violence prevention policy, companies will also have to conduct violence prevention programs. The legislation stipulates the following specific requirements for the programs:

- measures and procedures to control the risks identified in the assessment as likely to expose a worker to physical injury;
- measures and procedures for summoning immediate assistance when workplace violence occurs or is likely to occur;
- measures and procedures for workers to report incidents of workplace violence to the employer or supervisor;
- and a procedure setting out how the employer will investigate and deal with incidents or complaints of workplace violence.

#### HARASSMENT PREVENTION PROGRAM

Companies will also be required to conduct harassment prevention programs. Again, the amendments stipulate the following requirements for the programs:

- measures and procedures for workers to report incidents of workplace harassment to the employer or supervisor;
- and procedures setting out how the employer will investigate and deal with incidents and complaints of workplace harassment.

Additionally, the employer is responsible for providing workers with information and instructions on the violence and harassment policies and programs implemented at their workplace.

### DOMESTIC VIOLENCE

The amendments include a special provision for dealing with domestic violence. Where an employer is aware, or ought to be aware, that domestic violence that would likely expose a worker to physical injury may occur in the workplace, the employer is required to, "take every precaution reasonable in the circumstances for the protection of the worker."

A significant new duty imposed on employers will be an obligation to provide information, including personal information, about a person with a history of violent behaviour who may pose a danger in the workplace if a worker can be expected to encounter that person in the course of his or her work and the risk of workplace violence is likely to expose the worker to physical injury. The amendment does limit the amount of personal information that is disclosed to what is reasonably necessary in the circumstances to protect workers from physical injury.

**REFUSING WORK**

As the Bill amends the *Occupational Health and Safety Act*, workers will have the right to refuse work if workplace violence is likely to put them in danger. The same investigatory protocols as in other work refusal situations will have to be followed.

**WHAT EMPLOYERS SHOULD TO DO.**

Employers need to start preparing now to ensure they have their assessments completed and their policies and programs in place by June 15, 2010 when the amendments come into force. For any questions or for assistance in complying with these requirements please contact us.

*The purpose of this document is to provide information as to developments in the law. It does not contain a full analysis of the law nor does it constitute an opinion of Ogilvy Renault LLP or any member of the firm on the points of law discussed.*

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