



The Government of Canada Strengthens Federal Framework to Address and Prevent Workplace Harassment and Violence

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Effective January 1, 2021, federally regulated employers will be required to comply with the [Work Place Harassment and Violence Prevention Regulations](#) (the “Regulations”). The new Regulations are extensive and will require employers to review and amend current policies governing workplace harassment and violence.

New Employer Obligations and Policy Requirements

The Regulations require employers to solicit feedback and work with a policy committee, workplace committee, or occupational health and safety representative (each an “Applicable Partner”), to take proactive steps to prevent the occurrence of workplace harassment and violence. Specifically, an employer and Applicable Partner must jointly:

- conduct workplace assessments to identify risks related to workplace harassment and violence, and to implement preventative measures aimed at alleviating those risks;
- develop and implement a workplace harassment and violence prevention policy that outlines how the employer will address harassment and violence in the workplace (all compulsory requirements for such policy are set out in section 10 of the Regulations);
- develop emergency procedures that are to be implemented when the occurrence of harassment or violence pose an immediate danger or threat to the health and safety of an employee; and
- develop or identify workplace violence and harassment training to be delivered to all employees within 1 year of the Regulations coming into force (and within 3 months of commencing employment for those employees who commence employment after the Regulations come into force).

Further, the Regulations require employers to:

- provide employees with information on support services related to mental and psychological health;
- designate a person or work unit that is responsible for receiving notice of an occurrence of workplace harassment or violence;
- retain certain records relating to workplace harassment and violence (a list of records that must be retained is set out in section 35 of the Regulations); and

- deliver an annual report to the Minister on or before March 1st of each year, reporting on the frequency of workplace harassment and violence occurrences.

New Complaint Resolution Process

The Regulations also include a new framework that employers must follow when responding to workplace harassment and violence complaints. Notably, the framework requires an employer, or a person designated by the employer to:

- contact a complainant within 7 days of receiving a complaint and notify them: (i) that the complaint was received; (ii) that the workplace harassment and prevention policy has been engaged; (iii) of each of the steps in the resolution process that will be followed; and (iv) that the complainant is permitted to have representation during the resolution process;
- contact the person who is alleged to have been responsible for the occurrence of workplace harassment or violence that was identified in the complaint, and notify the person: (i) they have been named or identified as the responding party to a complaint; (ii) that the workplace harassment and prevention policy has been engaged; (iii) of each step of the resolution process that will be followed; and (iv) that the responding party is permitted to have representation during the resolution process;
- within 45 days of receiving notification of a complaint, make “every reasonable effort” to resolve the complaint, which may include a negotiated resolution or participation in conciliation (if agreed to by all parties to the complaint);
- select a qualified investigator to investigate the complaint if requested by the complainant to do so. In order to be considered a qualified investigator, the individual must have specific qualifications and training, as well as knowledge of the *Canada Labour Code*, the *Canadian Human Rights Act* and any other legislation that is relevant to harassment and violence in the workplace (investigator qualifications are set out in section 28 of the Regulations);
- following the issuance of an investigator’s report, the employer and the Applicable Partner must jointly determine which of the recommendations set out in the report will be implemented to eliminate or minimize the risk of a similar occurrence; and
- conclude the resolution process within 1 year after the day on which notice of the occurrence was received.

Key Takeaways

The Regulations are scheduled to take effect on January 1, 2021. Given the expanded scope of employer obligations specified in the Regulations, employers should start working with the Applicable Partner to review and amend existing policies and training material to ensure compliance with the Regulations.

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