

Blakes Bulletin

Labour & Employment

Is Your Workplace Ready for Ontario's New Workplace Violence and Harassment Legislation?

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On June 15, 2010, amendments to Ontario's *Occupational Health and Safety Act*, which address workplace violence and harassment, will become law. These amendments designate workplace violence and harassment as occupational health and safety hazards in Ontario and require that employers take steps to prevent and properly respond to workplace harassment and violence. Employers in Ontario have 12 weeks left to consider and implement the following five requirements in their workplaces:

1. CONDUCT AN ASSESSMENT OF THE RISK OF WORKPLACE VIOLENCE

Employers are required to assess the risk of violence in their workplaces and to report the results of the assessment to their joint health and safety committee or health and safety representative. If a workplace does not have a committee or representative, then the employer is required to report the results directly to its workforce. Employers are also required to re-assess the risks of workplace violence as often as is necessary to protect their workers.

A risk assessment must consider the nature of the workplace, the type of work and the conditions of work in the workplace. The risk assessment must be conducted with regard to the circumstances that would be common to similar workplaces as well as circumstances specific to the workplace.

However, the manner in which employers perform the risk assessment is not mandated by the legislation and will likely depend, in part, on the workplace in question. Further, the Ontario Ministry of Labour has not yet released any guidelines to help employers comply with this requirement. Common sense suggests that when conducting a risk assessment, employers should review past incident or accident reports, security reports, workplace inspection reports, training records,

disciplinary records, company policies and standards as well as industry best practices. Guidelines from other Canadian jurisdictions suggest that employers should conduct employee surveys or at minimum, involve their workforce in the assessment in some other manner.

2. PREPARE POLICIES ON WORKPLACE VIOLENCE AND HARASSMENT

Employers must prepare policies to address workplace violence and harassment and review the policies, at minimum, on an annual basis. For workplaces with more than five employees, the policies must be in writing and posted in the workplaces.

Again, the content of the policies is not mandated by the legislation and the Ministry of Labour has not created guidelines addressing this issue. However, employers should take care to tailor their policies to suit their individual work environments.

3. PREPARE PROGRAMS ON WORKPLACE VIOLENCE AND HARASSMENT

Employers are required to develop programs to implement the workplace violence and harassment policies in their workplaces.

The workplace violence program must include measures to control the risks of workplace violence identified in the risk assessment and measures to summon immediate assistance when workplace violence occurs. Both the workplace violence and harassment programs must include measures for workers to report incidents and set out how the employer will deal with incidents or complaints.

4. CONSIDER THE RISK OF DOMESTIC VIOLENCE

The legislation states that if an employer is aware or ought reasonably to be aware, that domestic violence that would likely expose a worker to physical injury, may occur in the workplace, employers are required to take reasonable precautions to protect workers. Therefore, employers must keep this particular hazard in mind when conducting their workplace assessment and when implementing policies and programs.

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5. PROVIDE INFORMATION AND INSTRUCTION TO WORKERS

Employers are obligated to provide information and instruction regarding the contents of the policies and programs to their workers. Therefore, beyond developing policies and programs, employers should consider providing training session(s) to review the new policies and programs.

In addition, employers are required to provide information to a worker about any person with a history of violent behaviour if the 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 amount of information disclosed should only be that information which is reasonably necessary to protect the worker from physical injury; however, it does include personal information.

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