

Work Place Harassment and Violence Prevention Regulations

May 1st, 2019

Bill C-65 the act to amend the Canada Labour Code (CLC) the Parliamentary Employment and Staff Relations Act and the Budget Implementation Act, 2017, No. 1. received Royal Assent last October and is anticipated come into force in 2020. The Act will amend the Canada Labour Code to create a more robust approach to addressing harassment and sexual violence in the workplace and expand the obligations of federal employers in relation to this. It would also expand the coverage to parliamentary workplaces, including staff of Parliament Hill. The Act includes authority to make regulations to prevent and respond to harassment and violence in the workplace and to support those affected. Revised proposed regulations are now in the [Canada Gazette, Part I](#), and will be available for public comment for the next **30 days**.

The Government of Canada released its findings from the online consultation in its report, [Workplace Harassment and Violence Prevention Regulations – What We Heard](#) on April 26th 2019. To ensure the regulations respond to the needs of the workplaces where they will apply, the Government consulted more than a thousand Canadians, stakeholders, employers, employee representatives, subject matter experts and advocacy groups, among others, for their feedback on the initial proposed regulations.

The Work Place Harassment and Violence Prevention Regulations apply to all federal workplaces covered under Part II of the Canada Labour Code, including the federally regulated private sector, the federal public service and parliamentary workplaces. The regulations replace Part XX of the Canada Occupational Health and Safety Regulations, as well as portions of two other regulations that include violence prevention provisions.

What are the Regulations?

The proposed Regulations streamline and consolidate harassment and violence provisions within one separate set of regulations. They highlight the importance of harassment and violence prevention and make it easier for employers and employees to identify their rights and duties. The proposed Regulations include strengthening requirements of Bill C-65 with respect to preventing and responding to occurrences of harassment and violence, and supporting those affected.

The following definitions apply in these proposed regulations:

1. **Designated recipient** means a person who is designated by the employer under section 14.
2. **Occurrence** means an occurrence of harassment and violence in the work place.
3. **Principal party** means an employee or employer who is the object of an occurrence.
4. **Responding party** means the person who, in a notification given under subsection 15(1), is identified as having been responsible for the occurrence.
5. **Third party means** a person who witnessed an occurrence or is informed of an occurrence by the principal party or responding party.

Workplace Harassment and Violence Prevention Policy

Employers will be required to jointly develop and make available a prevention policy that outlines information on how their organization will address harassment and violence in their workplace.

The policy must outline how an employer is to be informed of external dangers, such as family violence and stalking, that could result in harassment and violence in the workplace and the measures they may implement to minimize those dangers.

Also, the policy must outline the resolution process, including the manner in which the employer will protect the privacy of the person/people involved in an occurrence. The support measures that are available to employees and the name of the person who is designated to receive the complaint. The designated recipient is defined as a person who is designated by the employer (see section 14 of the proposed regulations) to whom the notification of an occurrence may be given.

Workplace assessment

Employers will have to jointly conduct a workplace assessment that identifies risks of harassment and violence in the workplace. The workplace assessment should take into account the culture, conditions and activities of the work place; and any reports and records/data that are related to harassment and violence in the work place.

At least **every three years**, the workplace assessment will need to be reviewed and updated.

A workplace assessment review must also be undertaken in certain situations where the resolution process cannot proceed:

- When the principal party wishes to remain anonymous;
- When the principal party chooses to stop proceeding with the resolution process prior to an investigation being started;
- When the responding party is not an employee or the employer.

The workplace assessment should result in preventive measures to protect the workplace from the determined risks.

Emergency procedures

The employer will be required to jointly develop and implement emergency procedures that are to be implemented if an occurrence of harassment and violence poses an immediate danger to the health and safety of an employee, or when there is a threat of such an occurrence happening in the workplace. The outlined procedure should be made available to all employees.

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Training

Employers will be required to jointly identify or develop the training on harassment and violence in the workplace and ensure it is delivered to employees, employers and the designated recipient.

The training will have to be delivered at least once every three years and provide instruction on the elements of the prevention policy.

The training should also include:

- The elements of the work place harassment and violence prevention policy;
- The relationship between work place harassment and violence and the prohibited grounds of discrimination set out in the Canadian Human Rights Act;
- How to recognize, minimize and prevent work place harassment and violence;
- Crisis prevention, personal safety, and de-escalation techniques; and
- How to appropriately respond to various types of occurrences.

The employer must ensure that each employee receives training within three months after the day on which their employment begins. The designated recipient should receive the training before assuming their duties under these regulations.

The employer must also provide additional training to employees following any updates, or to an employee who is assigned to a new activity or role in which there is an increased or specific risk of work place harassment and violence.

Support measures

The proposed Regulations require employers to make available information respecting medical, psychological or other support services that employees may access within their geographical region.

Resolution process

The employer must designate a person as a designated recipient to whom notification of an occurrence may be given. Notification of an occurrence can be done by the principal party, or a third party. This notification can be made anonymously.

The resolution process will require employers to respond to every notification of an occurrence of harassment and violence in their workplace. Within five days after receiving a notification of an occurrence, the employer or designated recipient must contact the principal party or responding party to confirm that the notification has been received. The regulations provide more details regarding what information should be included in the notification to the principal and responding party.

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The resolution process must include multiple options for resolution:

- Early resolution – The employer or designated recipient must make every reasonable effort to resolve the occurrence.
- Must be concluded within 180 days after the notification of the occurrence is made.
- Conciliation – May proceed only if an investigation of the occurrence has not begun and if the principal party and the responding party agree.
- Must be concluded within 180 days after the notification of the occurrence is made.
- Investigation – The investigator must examine the occurrence. After the investigation is resolved the investigator must provide a report to the employer, the principal party and the responding party that sets out: a detailed description of the occurrence, the methodology used for the investigation, their analysis and findings and recommendations to eliminate or minimize the risk of a similar occurrence.
- Must be concluded within one year after the notification of the occurrence is made.

It is important to note that if an investigation is chosen to address the occurrence, employers will have to follow the requirements regarding the selection and qualifications of the investigator.

Records and Reports

To support enforcement of the proposed Regulations, employers will have to keep a number of records (for a period of ten years), including;

- Records of all notifications of harassment and violence in their workplace;
- Records of the actions taken to address the notifications;
- Records of the decisions they make in the event they are unable to agree on an issue that they must do jointly and;
- Records of any delays to the timelines.

In addition employers must also keep a copy of each investigators report, annual report, semi-annual report and a copy of each fatality. The proposed Regulations outlines the content to be included in each record and report.

Internally, employers will be required to report aggregated data on occurrences resolved through early resolution and conciliation to the policy committee or, if there is no policy committee, to the work place committee or health and safety representative twice per year. This internal reporting will ensure that the committees or representatives have all necessary information to conduct their responsibilities in monitoring the workplace, reviewing and updating the workplace assessment, prevention policy, training and submitting annual reports.

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In order to improve data collection on the prevalence and types of occurrences of harassment and violence in federal workplaces, employers must report an occurrence that results in the death of an employee to the Minister within 24 hours and aggregated data on all occurrences annually to the Minister.

What could this mean for you?

The successful implementation of the new harassment and violence prevention regime consists will be assisted with various resources and tools for employers. These resources include:

1. **Awareness campaigns:** Creating awareness campaigns to challenge misconceptions and stereotypes related to harassment and violence in the workplace. Generally, the campaigns would bring awareness to workplace parties of their rights and obligations.
2. **Development of materials and tools, and roster of investigators:** Developing materials such as guidelines for the implementation of the regulation and links to provincial/territorial support services. Additionally, the Labour Program will coordinate a labour and employer co-developed roster of investigators for employers to access in order to facilitate the resolution process for the various parties involved in a complaint.
3. **Enforcement:** The Labour Program investigates complaints regarding non-compliance with the Code, not actual occurrences of harassment and violence. At any point in the resolution process, a party may make a complaint that the employer has been non-compliant with the Code. In these situations, the Labour Program will investigate. If the Labour Program observes particular employers or industries with a higher number of complaints or complaints of a particular nature, then the Labour Program will conduct reactive inspections of those workplaces.
4. **Harassment and violence prevention hub:** The Labour Program is establishing a hub to provide support to employers and employees on the topic of violence and harassment in the workplace. The hub will link employers and employees with Labour Program experts who can help them navigate the harassment and violence provisions under the Code and provide support in reporting an occurrence.
5. **Annual reporting and program review:** Bill C-65 requires employers to report all occurrences of harassment and violence to the Minister, and that the Minister prepare and publish an annual report related to harassment and violence within federally regulated workplaces. In addition the Minister is required to conduct a review of the provisions of Part II of the Code related to harassment and violence every five years.
6. **Grants and contributions:** The Labour Program is putting in place a new grants and contributions program that will provide funding for management and union parties to co-develop sector-specific training and resources. The intended results of the program are the co-development of tools and resources related to harassment and violence prevention and more collaborative workplaces.

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What WSPS Can Do for You?

WSPS consultants are available to help you understand the changes to your roles and responsibilities in maintaining a safe and healthy workplace. WSPS currently offers provincial customers with Violence and Harassment Training Sessions, information on Risk Assessments for Violence and Harassment, E-Courses and Awareness Sessions. WSPS is working on the development of a suite of solutions to assist employers to comply with the new regulations

We will continue to update you on Bill C-65, and we encourage those interested to track updates on the WSPS OHS Legislation Tracker.

For additional questions in regards to C-65 please contact WSPS's subject matter expert, Senior Account Manager, Chrystal Brown. Phone 613-340-0456 or email Chrystal.Brown@wsps.ca

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