Bill 190: Ontario Government Proposes Further Amendments To Workplace Legislation



Hot on the heels of its March 2024 amendments to workplace laws, last week the Ontario Government announced its intention to implement another round of changes when it introduced the *Working for Workers Five Act, 2024* ("Bill 190") in the Legislature.

Many of the statutory amendments proposed by Bill 190 will affect nearly all provincially-regulated employers in the province.[1]

MORE REQUIREMENTS FOR JOB POSTINGS AND INTERVIEWS

The recently-passed *Working for Workers Four Act, 2024* introduced new requirements pertaining to publicly advertised job postings and job applications, including, among other things:

- A requirement to disclose the use of artificial intelligence in the hiring process;
- A requirement to disclose expected compensation; and
- A prohibition on requiring "prior Canadian work experience."

Note that these requirements are not yet in effect. They will come into force on a date to be specified by the government. Please refer to Miller Thomson's April 25, 2024 communiqué for more information about the *Working for Workers Four Act, 2024.*

Bill 190 proposes further amendments to the *Employment Standards Act, 2000* ("ESA") to include:

- A requirement to incorporate in publicly advertised job postings a statement indicating whether or not the posting is for an existing vacancy, along with any other information specified by future regulations; and
- A requirement to provide applicants who are interviewed for a publicly advertised job posting with certain information (to be specified by future regulations) and to retain this information for three years.

If Bill 190 becomes law, these requirements will not take immediate effect but will come into force on a date to be specified by the government.

PROHIBITING EMPLOYERS FROM REQUIRING MEDICAL NOTES FOR STATUTORY SICK LEAVE

Currently, employees who are covered by the ESA are entitled to up to three unpaid sick days per calendar year. If passed into law, Bill 190 will amend the ESA to prohibit employers from requiring employees to provide a certificate from a qualified health practitioner evidencing the employee's entitlement to sick leave. However, employers will be able to require other evidence that is "reasonable in the circumstances."

This amendment would have immediate effect if Bill 190 becomes law.

CHANGES TO ADDRESS HEALTH AND SAFETY FOR REMOTE WORKERS

If it becomes law, Bill 190 would, among other things:

- Amend the definitions of "workplace harassment" and "workplace sexual harassment" under the *Occupational Health and Safety Act* ("OHSA") to expressly cover conduct occurring virtually through information and communications technology;
- Expressly specify that the OHSA applies to "telework performed in or about a private residence or the lands and appurtenances used in connection therewith" but that an office located in a private residence is not an "industrial establishment" for the purposes of the statute;
- Permit the information that is required to be posted under the OHSA to be posted electronically as long as the information is in a format that is readily accessible to workers and workers are directed on where and how to access the information; and
- Remove the requirement for joint health and safety committee meetings to take place at the workplace.

These changes would come into force on the later of (i) July 1, 2024, or (ii) the date Bill 190 receives Royal Assent.

CHANGES TO ENSURE SANITATION AND ACCESS TO MENSTRUAL PRODUCTS

If Bill 190 becomes law, constructors and employers will be required to ensure that washroom facilities provided for workers' use are maintained in a clean and sanitary condition, and will be required to maintain cleaning records as may be prescribed. This change would come into force on a date to be specified by the government.

In tandem with its introduction of Bill 190, the Ontario Government also announced amendments to *Ontario Regulation 213/91: Construction Projects* under the OHSA. As of January 1, 2025, menstrual products must be provided at construction projects expected to last three months or more and at which twenty or more workers are regularly employed.

Footnote

1. For information about the industry-specific changes proposed by Bill 190, including changes to the *Fair Access to Regulated Professions and Compulsory Trades Act, 2006,* the *Building Opportunities in the Skilled Trades Act, 2021,* and the *Ontario Immigration Act, 2015,* please refer to the government's backgrounder document.

The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

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