

Five Bills And Counting: What Ontario's Working For Workers Five Act, 2024 Could Mean For Employers



On May 6, 2024, [Bill 190, the Working for Workers Five Act, 2024](#) (Bill 190) was introduced in the Ontario legislature. If passed, Bill 190 will amend various employment-related legislation in Ontario, including the *Employment Standards Act, 2000* (ESA) and the *Occupational Health and Safety Act* (OHSA). Bill 190 is also subject to revisions as it makes its way through the legislative process. We will continue to provide updates on substantive changes.

Amendments to the *Employment Standards Act, 2000*

Key proposed amendments to the ESA are as follows:

- **Publicly Advertised Job Postings and Applicants:** Employers who publicly advertise job postings must include a statement disclosing whether the job posting is for an existing vacancy. Further, if an employer interviews an applicant for a publicly advertised job posting, the employer must provide the applicant with “prescribed information.” Based on publications from the Ontario government, this will likely include informing an applicant that the position they applied for was filled.
- **Sick Notes:** Employers may not request a doctor’s note when an employee requests statutory sick leave under the ESA. However, employers may require an employee to provide evidence that is “reasonable in the circumstances” to prove their entitlement to such leave. This change applies to statutory sick leave only. Employers will still be able to request a sick note for leaves longer than three days (i.e., sick leaves that are not protected under the ESA).
- **Penalties:** The maximum fine for an individual who is convicted of violating the legislation will be doubled from C\$50,000 to C\$100,000.

The amendments regarding job postings and applicants are proposed to come into force on a day to be named by proclamation. The other amendments are proposed to come into force on the day that Bill 190 receives Royal Assent.

Amendments to the *Occupational Health And Safety Act*

Key proposed amendments to the OHSA are as follows:

- **Ambit of the OHSA:** The legislation will expressly apply to telework performed in or about a private residence or the lands and accessories used in connection therewith.
- **Workplace Harassment:** The definitions of “workplace harassment” and “workplace sexual harassment” will be updated to include virtual instances of such activities that occur through the use of information and communications technology.
- **Electronic Postings:** With respect to certain mandatory posting obligations, prescribed information may be posted in a “readily accessible electronic format.” To be deemed a “readily accessible electronic format” for the purposes of the act, (1) the employer must provide workers with direction on where and how to access the information; and (2) the information must be posted in an electronic format that workers in the workplace can readily access.
- **Washroom Facilities:** Constructors and employers must maintain washroom facilities to be used by workers in a clean and sanitary condition. Constructors and employers must also maintain records of such cleanings.

The OHSA amendments related to workplace harassment and electronic postings come into force on the later of July 1, 2024 or the day that Bill 190 receives Royal Assent. The remaining amendments to the OHSA generally come into force on the day that Bill 190 receives Royal Assent.

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