

# Five Bills In: What Employers Need To Know About Ontario's Latest Working For Workers Act



Ontario Bill 190, *Working for Workers Five Act, 2024* ("Bill 190") – the fifth iteration of Ontario's *Working for Workers* acts – received Royal Assent on October 28, 2024. Bill 190 includes a suite of amendments to various employment-related statutes, including the *Employment Standards Act, 2000* ("ESA"), the *Occupational Health and Safety Act* ("OHSA"), and the *Workplace Safety and Insurance Act, 1997* ("WSIA").

Many of the changes proposed by Bill 190 are now in force, having come into effect on the date of Royal Assent (October 28, 2024), but some will be brought into force by proclamation at some point in the future.

Below is a brief summary of the key legislative changes.

## **Amendments to the ESA**

### ***Job Posting Information***

Employers publicly advertising a job opening are now required to include in the posting: (1) a statement indicating whether the posting is for an existing vacancy; and (2) any additional information as may be prescribed by regulation. Exceptions may be provided for in regulations, but none have been published to-date. This requirement will come into force on a day to be named by proclamation.

### ***Duty to Inform Candidates***

If an employer conducts an interview with an applicant for a publicly advertised job posting, they must provide the applicant with certain prescribed information within a set timeframe. This information must be kept on record for three years from the date it is provided to the applicant. There is currently no proposed regulation outlining the prescribed information and timeline. This requirement will come into force on a day to be named by proclamation.

### ***Sick Leave***

Employers are now prohibited from requiring an employee to provide a certificate from a qualified health care practitioner as proof of their entitlement to a sick leave

under the ESA. Employers retain the right to ask an employee to provide information “reasonable in the circumstances” but may no longer require a ‘sick note’ from a qualified health practitioner. This requirement will come into force on a day to be named by proclamation.

The definition of “qualified health practitioner” under the Act has also been expanded to expressly include a psychologist. This change is now in force.

### ***Increased Penalties for ESA Contraventions***

The maximum fine for individuals found to have violated the ESA has doubled, increasing from \$50,000 to \$100,000. This change is now in force.

## **Amendments to the OHSA**

### ***Virtual Workplace Harassment***

The definitions of “workplace harassment” and “workplace sexual harassment” are expanded to include harassment that occurs virtually through the use of information and communications technology. This change is now in force.

### ***Application to Remote Workers***

The OHSA has been amended to apply to telework performed in or about a private residence. This is a new exception to the “private residences” exemption under [section 3\(1\)](#), which historically restricted the Act from applying to, “work performed by the owner or occupant or a servant of the owner or occupant to, in or about a private residence or the lands and appurtenances used in connection therewith”. This new exception to the exemption may be subject to limits or conditions imposed by regulations but no such regulations have been published to-date. In a related change, the definition of “industrial establishment” has been amended to clarify that an office in a private residence is not an “industrial establishment” for the purpose of the Act. These changes are now in force.

### ***Electronic Posting Requirements***

Employers will be able to fulfill the posting requirements under the OHSA by granting workers access to electronic copies of information, provided they direct workers on where and how to access the information and ensure it is posted in a format that can be readily accessed by workers in the workplace. This requirement will come into force on a day to be named by proclamation.

### ***Virtual JHSC Meetings***

Joint health and safety committee meetings may now take place remotely instead of exclusively in the physical workplace. This change is now in force.

### ***Washroom Facilities***

Employers and constructors under the OHSA will be required to ensure washroom facilities provided for workers are maintained in a clean and sanitary condition, and that records of cleaning are maintained and made available. This requirement will come into force on a day to be named by proclamation.

## **Amendments to the WSIA**

### ***Medical Coverage for Firefighters***

Bill 190 amends the WSIA to extend presumptive coverage for occupational cancers, heart injuries, and post-traumatic stress disorder (PTSD) to wildland firefighters and wildland fire investigators. The Act has also been amended to address the required years of service for coverage of primary-site skin cancers, now 10 years. These changes are now in force, subject to transitional provisions addressing qualification timing.

## Takeaways for Employers

The changes introduced by Bill 190 are significant, and come largely without companion regulations or guidelines from the Ministry of Labour, Immigration, Training, and Skills Development ("MLITSD") to direct employers on how to meet their new obligations.

While clarifying regulations and guidelines might be forthcoming, employers should review their policies and practices to consider how they can implement the new obligations. For example, the restriction on requesting sick notes will require employers to reevaluate their practices and explore alternative documentation that can be reasonably requested when employees request a sick leave under the ESA. Additionally, employers will need to review their existing workplace harassment and violence policies to ensure that they explicitly include "virtual" conduct.

The most significant change may be the expansion of the jurisdiction of OHSA to include telework performed in or about a private residence. Employers have a general duty under the OHSA to "take every precaution reasonable under the circumstances for the protection of the worker" as well as numerous specific duties. It is unclear how these specific duties will apply to teleworkers, or how the employer might be expected to discharge its general duty in a work setting that it does not control. Employers will need to examine their telework policies and practices with an eye to their expanded duties under the OHSA.

We will continue to monitor for any developments.

To view the original article click [here](#)

*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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