

Ontario's Working For Workers Five Act Creates New Requirements For Public Job Postings, Restricts the Ability Of Employers To Ask For Doctor's Notes And Updates The Occupational Health And Safety Act



Recently, the Ontario government introduced [Bill 190, the Working for Workers Five Act, 2024](#) ("Bill 190"). Bill 190 is currently in its second reading.

Similar to the other "Working for Workers" acts, Bill 190 proposes several amendments to various employment law related statutes. Key proposed amendments that Ontario employers should be aware of include:

- *Ontario Employment Standards Act, 2000* (the "ESA"): The ESA would be amended to:
 - require employers to disclose in publicly advertised job postings whether a position is vacant or not;
 - require employers to respond to applicants that they have interviewed for publicly advertised job postings and provide them with certain information, to be prescribed by regulation;
 - prohibit employers from requiring an employee to provide a certificate from a qualified health practitioner (i.e. a sick note) as evidence of entitlement to ESA sick leave. The [Ontario Government's news release](#) with respect to Bill 190 states employers may still request another form of evidence that is reasonable in the circumstances (e.g. an attestation); and
 - increase the maximum fines for individuals convicted of an offence under the ESA or for failing to comply with an order, direction or other requirement under the ESA from \$50,000 to \$100,000.
- *Ontario Occupational Health and Safety Act* (the "OHSA"): The OHSA would be amended to address the increase in remote working arrangements as follows:
 - expand the definition of "workplace harassment" and "workplace sexual harassment" to expressly apply to harassment in a workplace that occurs virtually through information and communications technology;
 - allow employers to post information required to be posted under the OHSA in an electronic format, as long as workers are directed on where and how to

access the information and the information is in a readily accessible format;

- remove the requirement that joint health and safety committees meet “at the workplace” such that remote meetings would be permissible;
- expand the application of the OHSA to “telework performed in or about a private residence”; and
- exclude from the definition of an “industrial establishment” any office located in a private residence.

We will provide further updates as Bill 190 proceeds through the Ontario legislature.

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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