

UPDATE: FORMAL WORKPLACE MEASURES TO COMBAT SEXUAL HARASSMENT REQUIRED BY SEPTEMBER 2016

Posted on March 16, 2016

Categories: [Insights](#), [Publications](#)

In a November 2015 bulletin, [we wrote](#) to advise that the Government of Ontario had put forward legislation targeted at strengthening workers' protection from workplace harassment, including sexual harassment.

Last week, Bill 132, the *Sexual Violence and Harassment Action Plan Act (Supporting Survivors and Challenging Sexual Violence and Harassment)*, 2015 received Royal Assent. While Bill 132 makes a number of legislative changes, employers should take particular note of the amendments to *Ontario's Occupational Health and Safety Act ("OHS")* which address workplace harassment (the definition of which now includes "workplace sexual harassment").

The result is that, effective as of **September 8, 2016**, employers who are subject to the *OHS* will be required to have the following:

- A workplace harassment policy which addresses workplace sexual harassment;
- Procedures to enable workers to report workplace harassment incidents, including to a secondary individual if the employer or person to whom an incident would normally be reported is the alleged harasser;
- A procedure for investigating incidents and complaints of workplace harassment;
- A procedure for informing both complainants and alleged harassers of the results of any workplace harassment investigation, as well as any resulting corrective action required; and
- A procedure for ensuring that information about an incident or complaint is kept confidential unless required to conduct an investigation or by law.

Finally, Bill 132 gives *OHS* inspectors the power to order an employer to hire, at its own expense, an impartial third party to conduct an investigation into an incident of workplace harassment.

What this means for Employers

While the **September 8, 2016 deadline** is almost six months away, employers should act soon to ensure compliance with the new legislation. Doing so will likely mean either amending existing workplace harassment

policies or implementing new policies.

More generally, employers should also be vigilant in addressing actual or potential workplace harassment, including by carefully investigating any incident or complaint. Training will continue to be a critical element in ensuring that internal investigators understand the law, how to conduct a proper investigation, draw conclusions from the factual findings, write a report and communicate to the alleged victim and harasser.

by Kyle Lambert and George Waggott

A Cautionary Note

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

© McMillan LLP 2016