

Workplace Harassment and Violence Prevention Regulations in effect starting January 1, 2021

Effective January 1, 2021 the [Workplace Harassment and Violence Prevention Regulations](#) and related amendments introduced by [Bill C-65](#) to the [Canada Labour Code](#) come into force. The new provisions increase federally-regulated employers' mandatory workplace harassment and violence prevention and response obligations.

Bill C-65, an Act to amend the Canada Labour Code (Harassment and Violence), the Parliamentary Employment and Staff Relations Act and the Budget Implementation Act, 2017, No. 1 received royal assent on October 25, 2018. The Regulations were published in the Canada Gazette Part II on June 23, 2020. The publication of the regulations, which specify standards that federally-regulated employers must follow was announced in a government [press release](#) on June 24, 2020.

Affected employers and employees

The Workplace Harassment and Violence Prevention Regulations apply to employers and employees of all federally regulated workplaces, including federally regulated private sector, the federal public service, and parliamentary workplaces.

The following sectors are considered federally regulated employers under the Canada Labour Code:

- banks;
- marine shipping, ferry and port services;
- air transportation, including airports, aerodromes and airlines;
- railway and road transportation that involves crossing provincial or international borders;
- canals, pipelines, tunnels and bridges (crossing provincial borders);
- telephone, telegraph and cable systems;
- radio and television broadcasting;
- grain elevators, feed and seed mills;
- uranium mining and processing;
- businesses dealing with the protection of fisheries as a natural resource;
- many First Nation activities;
- most federal Crown corporations; and
- any private business that is vital, essential or integral to the operation of ANY of the above sectors of activity.

Enhanced definition of harassment and violence

Bill C-65 which received royal assent on October 25, 2018, expands the language of part II of the Canada Labour Code to address “accidents, occurrences of harassment and violence and physical or psychological injuries and illnesses arising out of, linked with or occurring in the course of employment.” The wording of the Canada Labour Code prior to the amendment was: “accidents and injury to health arising out of, linked with or occurring in the course of employment.”

Bill C-65 further defines harassment and violence as:

“any action, conduct or comment, including of a sexual nature, that can reasonably be expected to cause offence, humiliation or other physical or psychological injury or illness to an employee, including any prescribed action, conduct or comment.”

The amendments introduce workplace harassment and violence and the concepts of “psychological injury or illness” into the Canada Labor Code, requiring federally regulated employers to protect employees from psychological damage.

Federally regulated employer obligations

The regulations spell out the requirements and procedures that federally regulated employers must have in place to respond to incidents of harassment and violence. In particular, federally regulated employers must:

- Develop harassment and violence prevention policies;
- Carry-out workplace assessments at least once every three years, or earlier if a notification of an occurrence is given and the resolution process cannot proceed; and implement preventive measures within six months for addressing risks identified as part of an assessment;
- Implement the resolution process in accordance with the Workplace Harassment and Violence Prevention Regulations;
- Submit annual aggregated data reports, and report within 24 hours any occurrence that results in the death of an employee to the government;
- Develop and deliver training on workplace harassment and violence to employees. Employers must deliver the training to employees by January 1, 2022 at the latest. New employees must receive training within three months of their employment start date. All employees must be retrained at least every three years or earlier if there is an update;
- Respond and offer support to occurrences of harassment and violence in the workplace;
- Investigate, record and report, all accidents, occurrences of harassment and violence, occupational illnesses and other hazardous occurrences known to the employer, including those pertaining to former employees. With respect to former

employees, employer obligations hold if an occurrence becomes known to the employer within three months of the end of employment;

- Appoint a designated person to whom employees may address complaints relating to an occurrence of harassment and violence. The designated person must have the required knowledge, training, and experience in issues relating to harassment and violence, and the relevant legislation; and
- Allow for the referral of unresolved complaints to the Minister, and allow the Minister of Employment, Workforce Development and Labour to investigate thereafter.

Employer actions

The importance of the harassment and violence provisions of Bill C-65 and the requirements of The Workplace Harassment and Violence Prevention Regulations cannot be understated. The scope of the regulations is broad and entails many new obligations for federally regulated employers.

Foresight and advance planning are essential for ensuring compliance with the new requirements starting January 1, 2021. Federally regulated employers would be well advised to consider the following actions as initial steps:

- Review and/or revise existing policies as needed to ensure compliance with the new regulations;
 - Identify risks to be addressed as part of the new workplace assessments, and start the process of implementing preventive measures;
 - Plan and budget for the workplace harassment and violence training for employees and for the designated recipient.
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