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New Violence and Harassment Prevention Obligations Now in Force for Federally Regulated Workplaces

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On January 1, 2021, the new *Work Place Harassment and Violence Prevention Regulations* (the “Regulation”) and associated changes to the *Canada Labour Code* (“Code”) came into force.

The Regulation and amendments to the Code place substantial obligations on a federally regulated employer to implement preventative and protective measures to address workplace violence and harassment. The requirements are detailed and extensive, and cannot be addressed fully in this briefing note. If you have questions or require assistance, we are here to assist.

New Definition of Harassment and Violence

Prior to the amendments, the Code and the *Canada Occupational Health and Safety Regulation* provided a patchwork of protections against sexual harassment and violence in the workplace. These protections did not apply uniformly to all federal workplaces and did not include explicit protection from harassment unrelated to sex. The amendments provide a comprehensive framework applicable to all federal workplaces covered by Part II of the Code. This includes federally regulated private sector workplaces, the federal public service, and parliamentary workplaces.

Importantly, the Code now includes a definition of “harassment and violence” which is “**any act, conduct, or comment, including of a sexual nature, that can reasonably be expected to cause offense, humiliation, or other physical or psychological injury or illness to an employee, including any prescribed action, conduct or comment.**” This new definition expressly incorporates psychological harassment into the Code for the first time.

New Requirements to Address Harassment and Violence

Under the Regulation, an employer is now required to implement detailed measures designed to prevent and address workplace harassment and violence and, in many cases, to do so in partnership

with a policy committee (see below) or, if there is none, the workplace committee or health and safety representative. A summary of the key requirements follow:

- **Policy** - Create a workplace harassment and violence prevention policy which is made available to employees and reviewed and updated (if necessary) at least once every three years.
- **Workplace Assessment** - Conduct a workplace assessment aimed at identifying internal and external risk factors that could contribute to harassment and violence in the workplace.
- **Risk Mitigation** - Develop and implement preventative measures to mitigate the risk of harassment and violence within six months of identifying the risk factors.
- **Emergency Procedures** – Develop emergency procedures that will be implemented if there is an occurrence or threat of an occurrence of harassment or violence in the workplace that poses an immediate danger to the health and safety of an employee.
- **Train** – Develop a workplace harassment and violence training program to be provided to employees, the employer¹ and the individual or department designated to receive and address an occurrence of workplace harassment or violence (“Designated Recipient”).
 - Employees must receive this training within three months after the start of employment or, if already employed on of January 1, 2021, by **January 1, 2022** and then at least once every three years thereafter.
 - An employer must be trained by **January 1, 2022** and at least once every three years thereafter.
 - The Designated Recipient must receive this training before assuming their duties
- **Resolution Process** – Develop and follow procedural requirements for the resolution of occurrences of workplace harassment and violence including:
 - a) report an occurrence and notify relevant parties
 - b) reach a negotiated resolution that must begin no later than 45 days after notice of the occurrence is provided
 - c) if a negotiated resolution is not reached, investigate an occurrence at the request of the principal party (*i.e.*, complainant)
 - d) prepare, disseminate and (if applicable) implement the investigator’s report
 - e) provide status updates to the principal and respondent(s) and the timelines for so doing.
- **Report** – File an annual report with the Minister of Labour that includes prescribed information about any occurrence(s) of harassment and violence in the workplace in the preceding year.
- **Record Keeping** – Retain certain records for 10 years.
- **Support** – Provide information to employees about the medical, psychological and other support services available to an employee in the geographic area.

To learn more and for assistance, contact a member of the Sherrard Kuzz LLP team.

¹ This includes any supervisor, manager, director, leader, executive, business owner, or anyone else who has responsibility fulfilling the employer duties under the Regulation.

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