



Federal regulations to prevent work place violence now in effect

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On June 17, 2008 the federal government announced the coming into force of the new *Violence Prevention in the Work Place Regulations*, which form part of the *Canada Occupational Health and Safety Regulation* under the *Canada Labour Code*. The new regulations apply to federally regulated industries, as well as to the federal public service. They require those employers to develop policies and controls to prevent work place violence, to assess and evaluate the risk of work place violence, and to assess and update their policies every three years.

PREVENTING WORK PLACE VIOLENCE

Federally-regulated industries, such as banks and inter-provincial transportation companies, were already obliged by the *Code* to “prevent and protect against violence in the work place.” Prior to the regulations, many such employers implemented significant preventive measures, particularly if their employees were considered to be at a high risk of work place violence (e.g. employees dealing directly with the public). The amended regulation now gives specifics about the employer’s obligations to prevent violence in the work place.

The new regulations broadly define work place violence as “any action, conduct, threat or gesture of a person towards an employee in their work place that can reasonably be expected to cause harm, injury or illness to that employee.” Federally-regulated employers will be required to develop and then post, in a place accessible to all employees, a work place violence prevention policy setting out the various regulatory obligations of the employer, all of which are designed to prevent violence at work.

Some of these obligations are:

- To provide a safe, healthy and violence-free work place;
- To communicate information about factors contributing to work place violence to employees;
- To dedicate sufficient resources and time to address factors that contribute to work place violence; and
- To assist employees who have been exposed to work place violence.

The amended regulations also provide examples of factors that are considered to contribute to work place violence, include bullying, teasing, and abusive or aggressive behaviour.

EVALUATING THE RISK AND DEVELOPING CONTROLS



The amended regulations require employers to work collaboratively with employees to attempt to identify the risk of work place violence. Employers covered by the regulations are required to consider many factors including:

- The work place violence experiences of other employers with similar work places to that of the employer;
- The location and circumstances in which work activities take place;
- Employees' reports of work place violence or the risk of work place violence; and
- The current measures in place to prevent and protect employees from violence.

The regulations require employers to try to quantify or assess the potential of the risk of violence manifesting in the work place. Within 90 days of that assessment, the employer is required to develop and implement controls and measures to minimize or eliminate the risk. These controls must be accompanied by follow-up procedures and plans for corrective actions that will respond to unforeseen risks of work place violence as they arise. Whenever there is any change in the work place that might operate to compromise the controls that are put into place, the amended regulations require the employer to review the effectiveness of its measures. Even in the absence of such a change, the new regulations require employers to review their violence prevention controls at least once every three years.

ENFORCEMENT AND COMPLIANCE

The amended regulations are under Part II of the *Code* and therefore their compliance monitoring and enforcement falls to the federal Labour Program's (formerly Labour Canada) health and safety officers.

Ensuring compliance, and prosecutions for non-compliance, with the *Code* will be similar to the enforcement of other aspects of the *Canada Occupational Health and Safety Regulation*.

Although health and safety officers will assist employers in implementing policy, and addressing safety issues, they will continue to have their traditional broad statutory powers to monitor and enforce compliance. These statutory powers include the ability to enter a work place, conduct safety audits, and issue directions to address non-compliance. Non-compliance with the new obligations may also result in prosecutions under the *Code*. A person convicted of contravening the *Code* may face a fine of up to \$1 million, as well as up to two years' imprisonment.

In Our View

The federal Violence in the Work Place Regulations are considered the most comprehensive of their type across Canada. They are claimed to represent another step in the direction of building the model work place. Notwithstanding these potential benefits, the federal government recognized that the new regulations would carry significant costs to employers. Employers will have to devote human



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resources to policy development, and monitoring, documenting and administering their policies, as well as training employees and promoting violence awareness.

For more information please contact **Colleen Dunlop** at (613) 940-2734.