



# **Bill C-65 - Amendments to the Canada Labour Code dealing with harassment and violence and to the Parliamentary Employment and Staff Relations Act dealing with occupational health and safety**

February 5, 2018

In the wake of allegations of sexual misconduct, debate is slated to begin on the federal government's Bill C-65, which, if passed, would toughen protections against workplace violence and harassment, including sexual harassment and violence, in federally-regulated workplaces.

Bill C-65, tabled in November 2017, would amend the *Canada Labour Code* (the "Code") to overhaul and bolster the obligations on employers to prevent, investigate, and take action on occupational health and safety incidents. Bill C-65 would also ensure the application of those same provisions to parliamentary and political staff, governed by the *Parliamentary Employment and Staff Relations Act* ("PESRA").

On January 29, 2018, Bill C-65 passed second reading and was referred to the Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities for further consideration.

## **Key proposed changes to the *Canada Labour Code***

### *Purpose expanded*

If passed, Bill C-65 would expand a number of provisions in Part II of the Code, Occupational Health and Safety. Among other changes, Bill C-65 would expand that Part's purpose to cover not only accidents, physical illnesses and injuries, but also psychological illnesses and injuries. Former sections of the Code relating to sexual harassment specifically would be repealed, with those protections folded into the general provisions addressing workplace violence and harassment.

### *Employer duties expanded*

The duties of employers will also expand if Bill C-65 passes. Employers are currently required to investigate, record, and report all "accidents, occupational diseases and other hazardous occurrences" known to them. With Bill C-65, employers would be required to investigate, record, and report all "accidents, occurrences of harassment or violence, occupational illnesses and other hazardous occurrences known to the employer."



Current obligations on employers to take steps to prevent and protect against workplace violence would also be expanded to require employers to take similar steps to prevent and protect against both violence and harassment, and to “respond to occurrences of harassment and violence in the work place and offer support to employees affected by harassment and violence in the work place.”

#### *Investigation by Minister*

Complaints of workplace violence or harassment not resolved between the employer and employee would be referred directly to the Minister for investigation. The Minister would then be required to investigate such complaint, unless of the opinion that the complaint has been adequately dealt with, or the matter is trivial, frivolous, or vexatious.

The Minister would have the authority to combine an investigation into a complaint relating to an occurrence of harassment or violence with an ongoing investigation relating to the same employer and involving substantially the same issue, and to issue a single decision arising from the combined investigation.

#### *Protection of employee privacy*

Bill C-65 would expand privacy protections for employees subjected to workplace violence or harassment, by prohibiting any policy committee, workplace committee, or health and safety representative to participate in an investigation related to an occurrence of harassment or violence, except for investigations regarding work refusals. Both the Minister and the employer would be barred from providing any information likely to reveal the identity of a person involved in an occurrence of harassment or violence in the workplace without that person's consent.

#### **Key proposed changes to the *Parliamentary Employment and Staff Relations Act***

Presently, no legislative occupational health and safety standards apply to employees of the House of Commons, the Senate, the Library of Parliament, the Parliamentary Protective Service, or the Parliamentary Budget Officer. Bill C-65 would expressly provide for the application of the majority of the Code's Occupational Health and Safety provisions to those employees and individuals who are not employees but are performing activities, the primary purpose of which is to enable the person to acquire knowledge and experience.

#### **In our view**

Federally-regulated employers, including those covered by the PESRA, should consider whether Bill C-65's proposed changes require an examination or revision of current policies and practices on workplace violence or harassment. Although Bill C-65 is at the Committee stage, and could be subject to further amendment, employers can expect that their obligations in these areas will be expanded.



**EMOND  
HARNDEN**  
LABOUR & EMPLOYMENT LAW  
DROIT DU TRAVAIL ET DE L'EMPLOI

---

We will keep Focus readers informed of any future developments.

For further information please contact [Steven P. Williams](#) at 613-940-2737 or [Larissa Volinets-Schieven](#) at 613-563-7660.