

New Regulations for Federally Regulated Employers Mandate Employer Action for the Prevention of Workplace Violence

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On May 8, 2008, the proposed amendments to the Canada Occupational Health and Safety Regulations under Part II of the Canada Labour Code on the prevention of workplace violence quietly came into effect.

The amendments for the first time explicitly set out a positive duty for every federally-regulated employer to take specific steps to proactively prevent and manage workplace violence. Below is a brief overview of the key requirements.

Definition

The Regulations set out a broad definition whereby workplace violence constitutes: “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”. In comparison to other jurisdictions, the Federal government has adopted an expansive definition that includes both physical injury and psychological harm, or any threat thereof.

Violence Prevention Policy

The Regulations require every federally regulated employer to develop, implement, and post a violence prevention policy setting out duties of the employer under the legislation to manage and prevent workplace violence. The employer is further required to identify all factors that may contribute to workplace violence in general and those that may specifically apply to their own workplace.

Assessment & Controls

Once all contributing factors are identified, the employer is obligated to assess the potential for violence at their workplace and implement appropriate controls to prevent, minimize, and manage the risk for violence.

Review & Development of Procedures

The employer must review its violence prevention program periodically to ensure its effectiveness in addressing the problem globally and addressing any specific issues that may arise at their particular workplace. At a minimum, the prevention program must be reviewed every three years.

The amendments also require the employer to put in place emergency notification procedures that will allow the required assistance to be called upon quickly and efficiently. The employer must communicate these procedures to its employees.

Notification & Investigation

If an employer becomes aware of an incident of violence or alleged violence in the workplace, the employer must take immediate steps to resolve the problem. If the problem cannot be resolved summarily, the employer is obligated to appoint a competent person to investigate the incident and furnish to that person all relevant information that is not excepted by law. Upon a conclusion of the investigation, the competent person must record and share their findings and suggested

recommendations to remedy the problem with the employer.

Training

As with other hazards, the employer must provide information, instruction, and training to its employees on its policy and procedures relating to workplace violence, in particular the employer must train its employees to recognize the risk of violence in their own working environment, and identify the factors that contribute to workplace violence, and respond accordingly.

In summary, the new Regulations require employers to put in place an anti-workplace violence policy and a comprehensive program aimed at preventing and managing workplace violence. More specifically, employers are required to take steps in identifying, assessing, and controlling hazards relating to violence.

The human, legal, and economic costs of workplace violence can be profound. Therefore, risk management is key. The quicker the response, the more effective and the less costly it will be for your organization.

For more information on the new Federal Regulations or Gowlings Seminars on the Prevention and Management of Violence in the Workplace, please contact Norm Keith at norm.keith@gowlings.com or Goldie Bassi at goldie.bassi@gowlings.com.

You may also visit our website for information on our consulting, training, and legal services at www.gowlings.com/ohslaw.