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Canada: Employers face workplace harassment prevention rules

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Federally-regulated employers in Canada must develop a workplace harassment and violence prevention policy and assess the organization's risks by 2021. The recently published [Work Place Harassment and Violence Prevention Regulations](#) will take effect, along with [Bill C-65](#), on 1 Jan 2021. These employee protections are part of reforms to the [Canada Labour Code](#) featured in four omnibus bills that received Royal Assent in 2017 and 2018.

Bill C-65 defines harassment and violence as "any action, 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."

Workplace risk assessment

Employers with 300 or more employees will conduct the workplace risk assessment with the policy committee; employers with 20 to 299 employees will conduct the assessment with the workplace committee; and employers with less than 20 employees will conduct the assessment with their health and safety representative. Internal and external workforce risk factors must be identified, taking into account:

- The culture, conditions, activities and organizational structure of the workplace.
- Circumstances external to the workplace, such as family violence, that could give rise to harassment and violence in the workplace.
- Reports, records and data related to harassment and violence in the workplace.
- The physical design of the workplace.

- The measures in place to protect psychological health and safety in the workplace.

Employers must develop preventive measures within six months after the risk factors have been identified.

Policy and procedures

The regulations outline the required elements of a workplace harassment and violence prevention policy, and the procedures employers must implement to respond to incidents. While policies can differ, all must:

- Include the employer's commitment to prevent and protect employees against harassment and violence.
- Describe the roles of workplace parties in relation to harassment and violence in the workplace.
- Outline the risk factors that contribute to workplace harassment and violence.
- List the workplace harassment and violence training to be provided.
- Explain the resolution process employees must follow if they witness or experience workplace harassment or violence.
- Describe the reasons for reviewing and updating the workplace assessment.
- Detail the emergency procedures to be followed if an incident poses an immediate danger to employees' health and safety, or if there is a threat of such an occurrence.
- Describe how the employer will protect the privacy of the persons involved in an incident, or the resolution process for an incident.
- Describe any recourse that may be available to persons involved in an incident.
- Describe the support measures available to employees.
- Name the person designated to receive complaints related to the employer's non-compliance with the Labour Code or regulations.

The policy must be made available to all employees and updated at least every three years. Employers must also keep records on every incident of harassment and violence in the workplace and report them annually to the Labour Program.

Training

Employers must conduct training specific to the culture, conditions and activities of the workplace and include:

- Elements of the workplace harassment and violence prevention policy.
- A description of the relationship between workplace harassment and violence and the prohibited grounds of discrimination set out in subsection 3(1) of the Canadian Human Rights Act.
- A description of how to recognize, minimize, prevent and respond to work place harassment and violence.

Employers must ensure that existing employees receive training by 1 Jan 2022. New hires must receive training within three months of starting employment. Retraining must occur at least every three years or when there is an update.

Related resources

Non-Mercer resources

- [Press release](#) (Employment and Social Development Canada, 24 Jun 2020)
- [Press release](#) (Employment and Social Development Canada, 24 Jun 2020)
- [Work Place Harassment and Violence Prevention Regulations](#) (Canada Gazette, 17 Jun 2020)
- [Canada Labour Code](#) (Justice Laws website)
- [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](#) (Canadian Parliament, 25 Oct 2018)

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- [Canada employers face new employee protections in September](#) (13 Aug 2019)

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