

# Working for Workers Five Act receives royal assent



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**On October 28, 2024, Bill 190, Working for Workers Five Act, 2024 received royal assent. Bill 190 amends the Employment Standards Act, 2000 (“ESA”), Occupational Health and Safety Act (“OHSA”) and Workplace Safety and Insurance Act (“WSIA”).**

Some amendments came into force immediately (on October 28, 2024) and others will come into effect on a day to be proclaimed by the Lieutenant Governor.

## Changes to the ESA

### *a. New requirement for a job posting*

Bill 190 will require every publicly advertised job posting to include a statement disclosing whether the posting is for an existing vacancy, as opposed to creating a pool of applicants for a future vacancy. The government may set out exemptions through regulation. This change comes into force upon proclamation, and is in addition to the job posting rules set out in Working for Workers Four Act which are also await-

ing proclamation.

The Ontario Government recently requested input regarding these job posting rules.

### *b. “Duty to inform” an applicant interviewed by an employer*

Bill 190 will create a “duty to inform” an applicant who has been interviewed of certain “prescribed information” – the content of which has not yet been set out. In a news release, the Government stated the purpose is to prevent applicants from being “ghosted.” Bill 190 will also require an employer to retain copies of the “prescribed information” for three years. This change comes into force upon proclamation.

### *c. No sick note for ESA sick leave*

An employer is prohibited from requiring an employee to provide a sick note from a qualified health practitioner as evidence the employee is entitled to ESA (statutory) sick leave. However, an employer may require “evidence reasonable in the circumstances that the employee is entitled to the leave.” This change came into effect immediately.

### *d. Increased fines*

The maximum fine for an individual convicted under the ESA has increased from \$50,000 to \$100,000. This change came into effect immediately.

## Changes to the OHSA

The following changes to the OHSA came into force on October 28, 2024, except for the changes regarding wash-room facilities which will come into force upon proclamation.

### *a. Application to a remote worker*

The OHSA now applies to “telework performed in or about a private residence.”

*b. Remote joint health and safety committee meetings*

A joint health and safety committee meeting may occur remotely as opposed to physically in the workplace.

*c. Recognition of “virtual” workplace harassment*

The definitions of “workplace harassment” and “workplace sexual harassment” now include harassment that occurs “virtually through the use of information and communications technology.”

*d. Electronic posting*

An employer may now post information in a “readily accessible electronic format” instead of physically in the workplace. This applies to the requirement an employer post: (a) a copy of the OHSA, (b) any explanatory material

prepared by the Ministry of Labour, Immigration, Training and Skills Development of Ontario, and (c) a copy of its occupational health and safety policy.

Posting in a “readily accessible electronic format” means: (a) the employer provides workers with direction on where and how to access the information, and (b) the information is posted in an electronic format that can be readily accessed by workers in the workplace.

*e. Washroom facilities*

Bill 190 will require an employer or constructor to ensure that any washroom facility provided by the employer or constructor for the use of workers is maintained in a clean and sanitary condition, and to maintain cleaning records. Additional regulations may be enacted with respect to washroom facilities.

## Changes to the WSIA

The WSIA was amended to extend presumptive coverage for post-traumatic stress disorder to wildland firefighters and wildland fire investigators (*effective immediately*). Bill 190 will further amend the WSIA to extend presumptive coverage to prescribed firefighters and fire investigators for primary-site skin cancer if the worker had at least 10 years of service before being diagnosed (*upon proclamation*).

*Editor’s note: This briefing note was drafted by Sherrard Kuzz LLP Employment & Labour Lawyers, and first appeared on the firm’s website on October 30, 2024. We reprint it here with permission.*