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## Occupational Health and Safety Amendment Act (Harassment and Violence), 2007, Bill 29

Ontario's OH&S legislation has long required employers to take "every precaution reasonable" to protect workers. However, Ontario has remained one of the few Canadian jurisdictions where the occupational health and safety and workers' compensation regimes do not expressly address employer obligations to protect workers from workplace violence. On December 13, 2007, proposed legislation passed first reading in the Ontario legislature which would bring Ontario into the mainstream by amending the *Occupational Health and Safety Act* to increase employer responsibility for protecting workers from actual or threatened incidents of workplace-related harassment or violence.

Known as the *Occupational Health and Safety Amendment Act (Harassment and Violence)*, 2007, Bill 29 would require an employer, in consultation with the Joint Health and Safety Committee or other workplace health and safety representative, to prepare, as part of its occupational health and safety policy, guidelines and processes for identifying, eliminating and dealing with incidents of workplace related harassment or violence. It would also require every employer to develop and deliver regular harassment and violence prevention training.

Violence would be broadly defined to include threatened, attempted or actual physical force, and threatening statements or behaviour that reasonably lead the worker to believe he or she is at risk of physical injury. Harassment would be defined as a vexatious course of conduct which is known, or ought reasonably to be known, to be unwelcome and which may adversely affect a worker's psychological or physical well-being.

Bill 29 would give workers an express right to refuse to work where there is reason to believe that a danger is likely posed by workplace related harassment or violence. It further prescribes that where workplace related harassment or violence occurs or is likely to occur, the employer must ensure that the source of the harassment or violence is identified and prevented or stopped, and contact law enforcement where appropriate. Employers would also have an explicit obligation to ensure that adequate steps are taken to remedy the effects of the harassment or violence, and to compensate workers for any absences related to the harassment or violence that are not compensated under workers' compensation legislation.

Bill 29 is a private member's Bill. Often such Bills do not achieve full support and passage. However, the introduction of Bill 29 follows a joint province-wide initiative by the WSIB and the Ontario Ministry of Labour over the past year to prevent workplace violence. Under this initiative, Ministry of Labour Health and Safety Inspectors have exercised their authority to make orders and issue directives to employers in "high risk" industries where the employer has not established a workplace violence prevention program or an existing program is deficient. The government's commitment to strengthening anti-violence workplace initiatives through this project, and the successful first reading of Bill 29, suggest that Ontario is now poised to join the majority of Canadian jurisdictions in recognizing workplace violence and harassment as matters deserving of protection under occupational health and safety laws.

Heenan Blaikie's labour and employment group has recently seen the addition of one of Canada's leading specialists in the OH&S area. Cheryl A. Edwards joined us effective January 1, 2008 to lead the OHS and WSIB practice group. Readers seeking a more comprehensive treatment of the topic of workplace violence should watch for Heenan Blaikie's upcoming Occupational Health and Safety and Workers' Compensation newsletter, and are invited to contact Cheryl or any member of our Labour and Employment Group for further details.

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