



## Ontario Government Passes a Second Bill Changing Employment Law

### December 2021 Employer Alert

The Ontario Government continues in the lead up to an election year with passing bills that will substantially change employment laws. Most recently, on December 2, 2021, Bill 13, *Supporting People and Businesses Act, 2021*, received royal assent. As a result, there will be two amendments to the *Occupational Health and Safety Act* (the "OHSA").

The first amendment to the OHSA is that the Ministry of Labour may now enact, through regulation, a requirement that workplaces with five or less workers have in place a written health and safety policy. As such, small-sized employers should be prepared to create such a policy. Indeed, to ensure health and safety matters are properly being addressed, small-sized employers may wish to do so without specific regulation.

The second amendment to the OHSA is that there is now a requirement, when there is a critical injury (e.g. a worker passes out, losses a limb, etc.) or a fatality, that the company must prepare a written report and share the same with the health and safety representative or joint health and safety committee within 48 hours. Given that any critical injury report will be producible to the Ministry of Labour, further to its investigation and potentially laying charges, employers should strongly consider seeking legal advice prior to preparing the same.

#### Bill 27 Update

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In addition to the above OHSA amendments, as was noted in **our emailer of last week**, on November 30, 2021, the Ontario Government has passed Bill 27, *Working for Workers Act, 2021*, which brings about several substantial amendments to the *Employment Standards Act* (the "ESA"). This includes a new ban on non-competition agreements, a requirement for employers to have a disconnect policy, and a requirement for temporary help agencies and recruiters to be licenced. Bill 27 also received royal assent on December 2, 2021.

In regards to the ban on non-competition agreements, this ban has retroactively taken effect as of October 25, 2021. As was noted previously, there are two exceptions to this ban on non-competition agreements. First, this ban does not apply where the employee is an executive, a term which includes CEOs, CFOs, COOs, etc. Second, this ban does not apply where the agreement is entered into further to a purchase and sale, and the seller becomes an employee of the purchaser.

In regards to the requirement to establish a disconnect policy, employers with 25+ employees will have until June 2, 2022, being six months after royal assent, to draft and put into effect a disconnect policy. Thereafter employers who have grown to 25+ employees, will have until March 1st in subsequent years to draft and put into effect a disconnect policy. The policy must address employees disconnecting from work communication (e.g. email, phone, etc.) during their break/rest periods. Currently, there is no specific obligation to prohibit after work hours communication by way of the disconnect policy. Further specifics regarding the disconnect policy obligation may be provided by way of regulation.

In regards to the new obligation for temporary help agencies and recruiters to licence, the Ontario Government has not yet provided the date on which this will take effect.

For strategic advice regarding addressing the above, including drafting critical injury reports, drafting enforceable agreements regarding employees working for competitors, drafting employee

disconnect policies, and preparing agency licence applications,  
[please contact our firm.](#)

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