



THE NEWFOUNDLAND AND LABRADOR GAZETTE

EXTRAORDINARY

PART II

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ST. JOHN'S, TUESDAY, JANUARY 15, 2019

**NEWFOUNDLAND AND LABRADOR
REGULATION**

NLR 3/19



NEWFOUNDLAND AND LABRADOR REGULATION 3/19

Occupational Health and Safety Regulations, 2012 (Amendment)
under the
Occupational Health and Safety Act
(O.C. 2019-017)

(Filed January 15, 2019)

Under the authority of section 65 of the *Occupational Health and Safety Act*, the Lieutenant-Governor in Council makes the following regulations.

Dated at St. John's, January 14, 2019.

Elizabeth Day
Clerk of the Executive Council

REGULATIONS

Analysis

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2. Ss. 24.1 & 24.2 Added	

NLR 5/12

1. Sections 22 and 23 of the *Occupational Health and Safety Regulations, 2012* are repealed and the following substituted:

Interpretation

22. (1) In sections 23 and 24, "violence" means the attempted or actual exercise of physical force to cause injury to a worker and

includes threatening statements or behaviour which gives a worker reason to believe that he or she is at risk of injury.

(2) In this section and section 24.1, "workplace harassment" means inappropriate vexatious conduct or comment by a person to a worker that the person knew or ought to have known would cause the worker to be humiliated, offended or intimidated.

(3) In sections 24.1 and 24.2, "harassment prevention plan" means a plan developed, implemented and maintained by an employer in accordance with section 24.1.

(4) A reasonable action taken by an employer or supervisor relating to the management and direction of workers or the workplace is not workplace harassment.

Risk assessment

22.1 (1) An employer shall conduct a risk assessment which shall include consideration of

- (a) previous experience in the workplace;
- (b) occupational experience in similar workplaces;
- (c) the location and circumstances in which work may take place;
- (d) workplace characteristics including demographics, culture and the presence of new workers; and
- (e) issues raised by the occupational health and safety committee, the worker health and safety representative or the workplace health and safety designate.

(2) Where an employer obtains personal information in the course of conducting a risk assessment under this section, the employer shall keep the personal information confidential and shall not disclose the personal information except for the purpose of an investigation or where required by law.

Violence prevention

23. (1) Where a risk of injury to workers from violence is identified by an assessment performed under section 22.1, the employer shall

- (a) establish procedures, policies and work environment arrangements to eliminate the risk to workers from violence; and
- (b) where elimination of the risk to workers is not possible, establish procedures, policies and work environment arrangements to minimize the risk to workers.

(2) Where an employer becomes aware, or ought reasonably to be aware, that family violence that would likely expose a worker to physical injury may occur in the workplace, the employer shall take every precaution reasonable in the circumstances for the protection of the worker.

(3) In this section, "family violence" has the same meaning as in section 3 of the *Family Violence Protection Act*.

2. The regulations are amended by adding immediately after section 24 the following:

Harassment prevention plan

24.1 (1) An employer shall develop, implement and maintain a written harassment prevention plan in consultation with the occupational health and safety committee, the worker health and safety representative or the workplace health and safety designate.

- (2) A harassment prevention plan shall
 - (a) include a statement that every worker is entitled to employment free from workplace harassment;
 - (b) include a statement that the employer is committed to eliminating, where possible, or otherwise, minimizing the hazard of workplace harassment;
 - (c) include a statement of the worker's obligation to take reasonable care to
 - (i) not engage in bullying or workplace harassment,
 - (ii) report observations or experiences of bullying and workplace harassment, and
 - (iii) comply with the harassment prevention plan;

- (d) include a statement of a supervisor's obligation to ensure the health and safety of workers, including the supervisor's obligation to apply and comply with the harassment prevention plan;
- (e) set out the procedures for workers to report instances of harassment to an employer or supervisor or where the employer or supervisor is the alleged harasser, the procedures to report harassment to an external third party;
- (f) set out the procedures to be followed after a complaint of workplace harassment is received and the manner in which a complaint is investigated;
- (g) include a statement that any information obtained relating to workplace harassment, including personal information, will not be disclosed unless it is necessary for the purpose of an investigation, corrective action relating to the complaint or where required by law;
- (h) set out the procedures regarding notification of results of investigations and any actions to be taken as a result of an investigation;
- (i) include a statement that the harassment prevention plan is not intended to discourage a worker from exercising his or her rights under the *Human Rights Act, 2010*, the *Criminal Code* (Canada) or any other law of the province or of Canada; and
- (j) include a statement that the employer shall protect workers from retaliation and provide support to workers when workplace harassment occurs.

(4) The harassment prevention plan shall be

- (a) accessible to all workers in the workplace; and
- (b) reviewed as necessary but at least annually.

(5) An employer shall investigate complaints of workplace harassment.

(6) An officer may, where he or she considers it necessary, order that an impartial third party investigate a complaint of workplace harassment.

(7) Any expenses relating to an investigation referred to in subsection (6) shall be the responsibility of the employer.

Training

24.2 (1) An employer shall participate in training relating to harassment prevention.

(2) An employer shall provide training to employees regarding harassment prevention and the harassment prevention plan.

Commencement

3. These regulations come into force on January 1, 2020.

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**Occupational Health
and Safety Act**

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