

DENTONS

# What employers need to know about *Working for Workers* *Four and Five Acts*

Craig Lawrence & Emily Kroboth

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# Speakers:



**Craig Lawrence**  
Partner, Toronto, Canada  
+1 416 863 4420  
[craig.lawrence@dentons.com](mailto:craig.lawrence@dentons.com)



**Emily Kroboth**  
Associate, Toronto, Canada  
+1 416 361 2378  
[emily.kroboth@dentons.com](mailto:emily.kroboth@dentons.com)

# ***The Working for Workers Four Act, 2024***

Updates to the *Employment Standards Act, 2000*

- The *Working for Workers Four Act, 2024* passed on **March 21, 2024**.
- Changes come into effect on **June 21, 2024**.

# ***The Working for Workers Four Act, 2024***

## *Updates to the Employment Standards Act, 2000*

Update #1: Banning the requirement for “Canadian work experience”

**8.3** (1) *No employer who advertises a publicly advertised job posting shall include in the posting or in any associated application form any requirements related to Canadian experience. 2024, c. 3, Sched. 2, s. 2 (1).*

### *Exception*

*(2) Subsection (1) does not apply to a publicly advertised job posting that meets such criteria as may be prescribed.*

# ***The Working for Workers Four Act, 2024***

## *Updates to the Employment Standards Act, 2000*

Update #2: Required disclosure of the use of artificial intelligence during the hiring process

*8.4 (1) Every employer who advertises a publicly advertised job posting and who uses artificial intelligence to screen, assess or select applicants for the position shall include in the posting a statement disclosing the use of the artificial intelligence. 2024, c. 3, Sched. 2, s. 2 (1).*

### *Exception*

*(2) Subsection (1) does not apply to a publicly advertised job posting that meets such criteria as may be prescribed*

# **The *Working for Workers Four Act, 2024***

## Updates to the *Employment Standards Act, 2000*

### Update #3: Compensation information in job postings

*8.2 (1) Every employer who advertises a publicly advertised job posting shall include in the posting information about the expected compensation for the position or the range of expected compensation for the position. 2024, c. 3, Sched. 2, s. 2 (1).*

#### *Exception*

*(2) Subsection (1) does not apply to a publicly advertised job posting that meets such criteria as may be prescribed. 2024, c. 3, Sched. 2, s. 2 (1).*

#### *Range of expected compensation*

*(3) For the purposes of subsection (1), a range of expected compensation is subject to such conditions, limitations, restrictions or requirements as may be prescribed.*

# ***The Working for Workers Four Act, 2024***

## ***Updates to the Employment Standards Act, 2000***

Update #4: Absent a written agreement, vacation pay must be paid in a lump sum before vacation time is taken

*(3) The employer may pay the employee vacation pay that accrues during a pay period on the pay day for that period if the employee has made an agreement with the employer that it may be paid in that manner and,*

*(a) the statement of wages provided for that period under subsection 12 (1) sets out, in addition to the information required by that subsection, the amount of vacation pay that is being paid separately from the amount of other wages that is being paid; or*

*(b) a separate statement setting out the amount of vacation pay that is being paid is provided to the employee at the same time that the statement of wages is provided under subsection 12 (1).*

*(4) The employer may pay the employee vacation pay at a time set out in an agreement that the employee has made with the employer.*

# ***The Working for Workers Five Act, 2024***

## Updates to various employment-related legislation

- Bill 190: The Working for Workers Five Act, 2024 is currently in its second reading (not yet passed)
- Bill 190 will impact the following legislation:
  - Workplace Safety and Insurance Act, 1997
  - Ontario Immigration Act, 2015
  - **Occupational Health and Safety Act**
  - Fair Access to Regulated Professions Act, 2006
  - **Employment Standards Act, 2000**
  - Building Opportunities in the Skilled Trades Act, 2021



# ***The Working for Workers Five Act, 2024***

## ***Proposed Updates to the Employment Standards Act, 2000***

- Proposed Update #1: Job posting information

*8.5 (1) Every employer who advertises a publicly advertised job posting shall include in the posting,*

- (a) a statement disclosing whether the posting is for an existing vacancy or not; and*
- (b) such other information as may be prescribed.*

### *Exception*

*(2) Subsection (1) does not apply to a publicly advertised job posting that meets such criteria as may be prescribed.*

# ***The Working for Workers Five Act, 2024***

## ***Proposed Updates to the Employment Standards Act, 2000***

- Proposed Update #2: Duty to inform applicants interviewed

*8.6 If an employer interviews an applicant for a publicly advertised job posting, the employer shall, within the prescribed time period, provide the applicant with the prescribed information.*

*(7.1.1) An employer shall retain or arrange for some other person to retain copies of all prescribed information provided under section 8.6 for three years after the day the information was provided to the applicant.*

# ***The Working for Workers Five Act, 2024***

## ***Proposed Updates to the Employment Standards Act, 2000***

- Proposed Update #3: Removing the requirement for sick notes when taking sick leave

*(6.1) An employer shall not require an employee to provide a certificate from a qualified health practitioner as evidence under subsection (6) (job-protected sick leave)*

# ***The Working for Workers Five Act, 2024***

## Proposed Updates to the *Employment Standards Act, 2000*

- Proposed Update #4: Increasing the maximum individual fine under the ESA from \$50,000 to \$100,000

*Clause 132 (a) of the Act is amended by striking out “\$50,000” and substituting “\$100,000”.*

# ***The Working for Workers Five Act, 2024***

## ***Proposed Updates to the Occupational Health and Safety Act***

- Proposed Update #1: Clarifying that a remote worker's residence is a "workplace"

*1 (1) The definition of "industrial establishment" in subsection 1 (1) of the Occupational Health and Safety Act is amended by adding "other than an office located in a private residence" after "office".*

# ***The Working for Workers Five Act, 2024***

## ***Proposed Updates to the Occupational Health and Safety Act***

- Proposed Update #2: Including “virtual harassment” in the definition of Workplace Harassment and Workplace Sexual Harassment

*(2) Clause (a) of the definition of “workplace harassment” in subsection 1 (1) of the Act is amended by adding “including virtually through the use of information and communications technology” after “workplace”.*

*(3) Clause (a) of the definition of “workplace sexual harassment” in subsection 1 (1) of the Act is amended by adding “including virtually through the use of information and communications technology” after “workplace”.*

# ***The Working for Workers Five Act, 2024***

## ***Proposed Updates to the Occupational Health and Safety Act***

- Proposed Update #3: Expressly allowing policies to be posted virtually

*(5) For the purposes of this Act and the regulations, information is posted in a readily accessible electronic format if the following requirements are met:*

- 1. The employer provides workers with direction on where and how to access the information.*
- 2. The information is posted in an electronic format that can be readily accessed by workers in the workplace.*

# ***The Working for Workers Five Act, 2024***

## *Proposed Updates to the Occupational Health and Safety Act*

- Proposed Update #4: Allowing the Joint Health & Safety Committee to meet virtually
  - (2) *Subsection 9 (33) of the Act is amended by striking out “at the workplace”.*



# ***The Working for Workers Five Act, 2024***

## *Proposed Updates to the Occupational Health and Safety Act*

- Proposed Update #5: Requiring Clean Washroom Facilities

### *Washroom facilities*

*25.3 (1) An employer shall ensure that the washroom facilities, if any, that are provided by the employer for the use of workers are maintained in a clean and sanitary condition.*

### *Same, exception*

*(2) For greater certainty, subsection (1) does not apply if the washroom facilities are provided by a constructor on a project and subsection 23.1 (1) applies instead with respect to those facilities.*

### *Records*

*(3) The employer shall keep, maintain and make available records of the cleaning of washroom facilities as prescribed.*