

Compliance Briefing: What Exactly Does Workplace Violence Mean?



Everybody knows that OHS laws require employers to prevent workplace violence. But what's far less clear is what exactly 'workplace violence' means. In fact, the term doesn't mean exactly the same thing in each jurisdiction. The 3 variables:

1. What Counts as 'Violence'

'Violence' includes actions and threats of physical harm. But it may also include harassment and other forms of 'vexatious conduct' that cause or have the potential to cause 'psychological' harm. Of course, jurisdictions that limit 'violence' to physical dangers also typically have separate OHS protections for harassment. Even so, the distinction is important because measures required for violence are different than those required harassment.

Example: The Ontario OHS Act defines 'workplace violence' as conduct causing *physical* injury and/or endangering a worker's *physical* health and safety but also requires employers to deal with 'harassment.' But while violence requires hazard assessment, harassment doesn't.

Is Domestic Violence Workplace Violence'

Yes, if it happens in the workplace. Result: The employer may be held liable if it knew or should have known of the danger. This is spelled out in AB, NB, NL and ON and implied everywhere else.

2. Whether Prevention Duties Cover Worker-on-Worker Violence

Most jurisdictions define 'violence' as including acts by a 'person' that cause or threaten harm to a worker. Exceptions: In BC and PEI, violence means acts or threats by a person 'other than a worker.' In other words, the employer's duty to prevent workplace violence extends only to violence perpetrated against workers by third parties and doesn't cover acts against a worker committed by a co-worker.

3. What a 'Workplace' Is

The term 'workplace' goes beyond the physical facility or site to any location where a worker engages or is likely to be while engaging in work for the employer, including vehicles and mobile equipment. On the flip side, there are 6 jurisdictions' MB, NB, NS, SK, NT, NU' where OHS workplace violence duties (or at least some of those duties) apply only to specified high-risk workplaces, including health care, financial, retail, police, etc.

Bottom Line

If you're running a workplace violence prevention program, you better be sure you understand what the term means in each jurisdiction that you operate.

WHAT 'WORKPLACE VIOLENCE' MEANS IN EACH JURISDICTION

FEDERAL

Work place violence: Any action, conduct, threat or gesture towards an employee in their work place that can reasonably be expected to cause harm, injury or illness to that employee

Work place: Any place an employee is engaged in work for employer

ALBERTA

Violence: The threatened, attempted or actual conduct of a person that causes or is likely to cause physical or psychological injury or harm, including domestic or sexual violence

Work site: Any location where worker is, or likely to be, engaged in work for employer including any vehicle or mobile equipment

BRITISH COLUMBIA

Violence: Attempted or actual exercise by a person, other than a worker, of any physical force so as to cause injury to a worker, including any threatening statement or behaviour which gives a worker reasonable cause to believe that he/she is at risk of injury

Workplace: Any place where a worker is or is likely to be engaged in any work including any vessel, vehicle or mobile equipment used by a worker in work

MANITOBA(1)

Violence: (a) Any attempted or actual exercise of physical force against a person; and (b) Any threatening statement or behaviour that gives a person reasonable cause to believe that physical force will be used against the person

Workplace: Any building, site, workshop, structure, mine, mobile vehicle or other indoor or outdoor premises or location where one or more workers work

NEW BRUNSWICK(2)

Violence: Attempted or actual use of physical force against employee, or threatening statement or behaviour that gives him/her reasonable cause to believe that physical force will be used against him/her, including sexual, intimate partner and domestic violence

Place of employment: Any building, structure, premises, water or land where an employee(s) works, including a project site, mine, ferry, train and any vehicle used or likely to be used by an employee

NEWFOUNDLAND & LABRADOR

Violence: Attempted or actual exercise of physical force to cause injury to a worker, including threatening statements or behaviour which gives the worker reason to believe he/she is at risk of injury, including from 'family violence'

Workplace: Any place where a worker is engaged in an occupation, including a vehicle or mobile equipment used by a worker in an occupation

NOVA SCOTIA(1)

Violence: (a) Threats, including a threatening statement or threatening behaviour that gives an employee reasonable cause to believe that the employee is at risk of physical injury; or (b) Conduct or attempted conduct of a person that endangers the physical health or physical safety of an employee

Workplace: Any place where an employee is or likely to be engaged in an occupation, including any vehicle or mobile equipment used or likely to be used by an employee

ONTARIO

Workplace violence: (a) The exercise of physical force by a person against a worker, in a workplace, that causes or could cause physical injury to the worker; (b) An attempt to exercise physical force against a worker, in a workplace, that could cause physical injury to the worker; or (c) A statement or behaviour that is reasonable for a worker to interpret as a threat to exercise physical force against the worker, in a workplace, that could cause physical injury to the worker

Workplace: Any land, premises, location or thing at, upon, in or near which a worker works

PRINCE EDWARD ISLAND

Violence: Threatened, attempted or actual exercise of any physical force by a person other than a worker that can cause, or that causes, injury to a worker, including any threatening statement or behaviour that gives a worker reasonable cause to believe that he/she is at risk of injury

Workplace: Any place where a worker is or is likely to be engaged in an occupation, including a vehicle, fishing vessel or mobile equipment used or likely to be used by a worker in an occupation

QUÉBEC

Psychological harassment: Any vexatious behaviour in the form of repeated and hostile or unwanted conduct, verbal comments, actions or gestures that affects an employee's dignity or psychological or physical integrity and results in a harmful work environment for the employee including a single incident that has lasting harmful effect on an employee

SASKATCHEWAN(2)

Violence: Attempted, threatened or actual conduct of a person that causes or is likely to cause injury, including any threatening statement or behaviour that gives a worker reasonable cause to believe that the worker is at risk of injury

Place of employment: Any plant, (i.e., premises, site, land, mine, water, structure, fixture or equipment employed or used in the carrying on of an occupation) in or on which one or more workers work, usually work or have worked

NORTHWEST TERRITORIES & NUNAVUT(1)

Violence: Attempted, threatened or actual conduct of an individual that causes or is likely to cause injury, such as a threatening statement or behaviour that gives a worker a reasonable belief that he/she is at risk of injury

Work site: Any location where a worker is, or is likely to be engaged in work, or a thing at, on, in or near which a worker is or is likely to be engaged in work

YUKON

No definition

Notes

- (1) Workplace violence regulations cover high-risk workplaces used for providing health care, pharmaceutical dispensing, education, retail/late-night retail, financial, police, corrections, other law enforcement, security, crisis intervention + counselling, alcohol sales or consumption, taxi, transit and/or other services designated in Reg.
- (2) Workplace violence regulations' duty to implement code of conduct or policy statement covers high-risk workplaces used for providing health care, pharmaceutical dispensing, education, retail/late-night retail, financial, police, corrections, other law enforcement, security, crisis intervention + counselling, alcohol sales or consumption, taxi, transit and/or other services designated in Reg.