



## Employment Law Update: Disconnecting From Work Policy

May 13, 2022

With the passage of *Bill 27, Working for Workers Act, 2021* in December 2021, the Province prohibited the use of non-compete agreements, except in very limited circumstances. That topic was covered in a previous post. Bill 27 also imposed an obligation on many employers to create a written disconnecting from work policy.

Disconnecting from work is defined as “not engaging in work related communications, including emails, telephone calls, video calls or sending or reviewing other messages, to be free from the performance of work”.

The deadline for implementing a disconnecting from work policy is fast approaching and is required to be in place by June 2, 2022 and applies to all employers which had 25 or more employees in Ontario as of January 1, 2022. In future years, any employer with 25 or more employees as of January 1 of that year, must implement a disconnecting from work policy by March 1 of that year.

In calculating the number of employees, every individual employed by the business in Ontario must be counted, regardless of the position or number of hours worked. Probationary employees and employees on leaves of absence, strike or layoff must also be included.

The policy must include information regarding the employer’s expectations on disconnecting from work, the date the policy was prepared and the date of any changes to the policy. Employers are required to provide the written policy to all employees within 30 calendar days of it being prepared or changed and must provide a copy to new employees within 30 calendar days of being hired.

While the Province has not passed regulations dictating the contents of an appropriate policy, or specified the consequences for not having, or violating, a policy, the Ministry of Labour, Training and Skills Development has released some additional guidance to assist employers which suggests that the policy may address issues such as: (i) an employer’s expectations regarding reading or replying to work related emails after an employee’s regular shift is over; (ii) different expectations that may arise depending on the time of day of the communication, the subject matter of the communication, or who is contacting the employee; and (iii) expectations surrounding the use of out of office notifications or voicemail messages.

As part of that guidance, the Ministry has clarified that the changes do not provide employees with a “new” right to disconnect from work and be free from the obligation to engage in work-related communications. However, it is up to each employer to determine the contents of its policy, as long as it complies with the existing rights set out in the *Employment Standards Act, 2000*, such as those related to work hours, break periods, vacation with pay, public holidays and when work is deemed to be performed.

While there are issues to be clarified in the months and years ahead, this change does signal a need for employers and employees to recognize the importance of maintaining a healthy work-life balance.

For further information about how these changes impact you or your company, or for assistance in preparing an appropriate policy for your organization, please do not hesitate to contact: David Bleiwas at 416-306-1813 or [dbleiwas@beardwinter.com](mailto:dbleiwas@beardwinter.com).

*The information contained in this article is for general information only and is not intended as legal advice or opinion. Should you require any advice or assistance with this or any other issue affecting your business, then please do not hesitate to contact us.*