

# Labour and Employment Law



LAPOINTE ROSENSTEIN  
MARCHAND MELANÇON  
S.E.N.C.R.L. Avocats

## Is your Policy to Prevent and Manage Situations of Psychological Harassment (hereinafter the “Policy”) in Compliance with the Recent Legislative Changes?

September 19th, 2024



**M<sup>re</sup> Iman Hachmi**  
Lawyer  
*Labour and Employment Law*



**Gabrielle Salib**  
Law Student

Bill 42: an *Act to prevent and fight psychological harassment and sexual violence in the workplace* (hereinafter the “**Bill**”) amends the *Act respecting labour standards* (hereinafter the “**Act**”). This bulletin details the amendments relating to the Policy.

Some of the new provisions of the Act will come into force on September 27, 2024. Of particular importance is the requirement that the elements enumerated below, must be included in the Policy. This obligation applies to employers doing business in Quebec and which are under provincial jurisdiction.

### 1. The New Requirements under the Act

The following elements must be included in the Policy:

- The methods and techniques used to identify, control and eliminate the risks of psychological harassment;
- The specific information and training programs on psychological harassment prevention that are offered to employees as well as to the persons designated by the employer to manage a complaint or report;
- The recommendations on behaviour to adopt when participating in work-related social activities;
- The procedures for making complaints or reports to the employer or providing information or documents to the employer, the person designated to manage them, as well as the information on the follow-up that must be given by the employer;
- The measures to protect the persons concerned by a situation of psychological harassment and the persons who have cooperated in the processing of a complaint or report regarding such a situation;
- The process for managing a situation of psychological harassment, including the process that applies to the holding of an inquiry by the employer;

- The measures to ensure the confidentiality of complaints, reports, information or documents received; and
- The preservation period of at least two years for documents related to managing a situation of psychological harassment.

## 2. The Consequences of Non-Compliance

Failure to comply with these new requirements may result in penal proceedings by the *Commission des normes, de l'équité, de la santé et de la sécurité du travail* (hereinafter the "CNESST") and every person who does not comply with these obligations is liable to a fine of \$600 to \$6,000 and, for any subsequent conviction, to a fine of \$1,200 to \$12,000<sup>1</sup>.

Additionally, if the Administrative Labour Tribunal considers that an employee has been a victim of psychological harassment, and the employer's Policy does not comply with the new requirements of the Act, it will be very difficult for the employer to argue that it had taken reasonable steps to prevent the situation of harassment.

Also, as of October 1, 2025, the Policy will form an integral part of the employer's prevention program and action plan in regard to the *Act respecting occupational health and safety*<sup>2</sup>.

## 3. Conclusion

In light of these changes, it is crucial for employers to ensure that their Policies and practices align with the new legal framework.

To help you navigate through these legislative changes, we invite you to contact one of the professionals in our Labour and Employment Law Group, who will be pleased to advise you on your obligations as an employer, as well as provide assistance in reviewing or drafting your Policy.

For further information, please feel free to contact one of our team members, who will be pleased to advise you.

**Jacquelin Caron | Partner**

☎ 514 925-6314

✉ [jacquelin.caron@lrmm.com](mailto:jacquelin.caron@lrmm.com)

**Christopher Deehy | Partner**

☎ 514 925-6353

✉ [christopher.deehy@lrmm.com](mailto:christopher.deehy@lrmm.com)

**Iman Hachmi | Lawyer**

☎ 514 925-6366

✉ [iman.hachmi@lrmm.com](mailto:iman.hachmi@lrmm.com)

---

<sup>1</sup> *Act respecting labour standards*, CQLR c N-1.1, ss 140.1, 145.1

<sup>2</sup> *An Act to prevent and fight psychological harassment and sexual violence in the workplace*, SQ 2024, c 4, ss 18 (2), 46(2); *An Act to modernize the occupational health and safety regime*, SQ 2021, c 27, s 313 (7)