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PUBLICATION

Employer Obligations under the new *Smoke-Free Ontario Act, 2017*

Date: June 29, 2018
Author: Maria Kotsopoulos

Original Newsletter(s) this article was published in: Employment Update: June 2018

Ontario's new *Smoke-Free Ontario Act, 2017* (the "SFOA") comes into force on July 1, 2018, replacing an earlier *Smoke-Free Ontario Act* and related legislation pertaining to e-cigarettes. The SFOA is part of Ontario's Bill 174, *Cannabis, Smoke-Free Ontario and Road Safety Statute Law Amendment Act, 2017*, which will also see a roll out of legislation relating to cannabis in October 2018.

For now, the SFOA applies to tobacco, medical cannabis, vapour products and prescribed products and substances and prohibits people from, subject to exceptions in applicable regulations, engaging in certain activities in a prohibited place, such as smoking or holding lighted tobacco, smoking or holding lighted medical cannabis, using an electronic cigarette or consuming a prescribed product or substance (the "prohibitions").

For the purpose of employment, "prohibited places" includes an "enclosed workplace," which means: (a) the inside of any place, building or structure or vehicle or conveyance, or a part of any of them, (i) that is covered by a roof, (ii) that employees work in or frequent during the course of their employment whether or not they are acting in the course of their employment at the time, and (iii) that is not primarily a private dwelling, or (b) a prescribed place.

The SFOA also sets out specific obligations of employers with respect to an enclosed workplace or other applicable place, as follows:

(a) ensure compliance with the prohibition against use of products and substances outlined above in a prohibited place within the employer's control;

(b) provide notice to employees of the prohibitions;

(c) post prescribed signs with respect to the prohibitions throughout the workplace, including washrooms;

(d) ensure there are no ashtrays, etc. in the enclosed workplace;

(e) ensure that a person who refuses to comply with the prohibitions does not remain in the enclosed workplace; and

(f) ensure compliance with any other prescribed obligations.

The posting obligation is set out with more specificity in Regulation 268/18 and provides that 10 cm by 10 cm signs are to be posted at each entrance and exit of the enclosed workplace in sufficient numbers to ensure that employees and the public are aware that smoking and the use of electronic cigarettes is prohibited in the enclosed workplace. Signs are to be made available for use on the Ontario government website.