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<p><b>THE EMPLOYER'S HEALTH AND SAFETY MANUAL</b></p> <p><b>Ryan J. Conlin, LL.B</b> <b>Stringer LLP, Management Lawyer</b> <b>Release No. 5, November 2023</b></p>
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### Publisher's Special Release Note 2023

The pages in this work were reissued in September 2023 and updated to reflect that date in the release line. Please note that we did not review the content on every page of this work in the September 2023 release. We will continue to review and update the content according to the work's publication schedule. This will ensure that subscribers are reading commentary that incorporates developments in the law as soon as possible after they have happened or as the author deems them significant.

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# Amendments Proposed to the Occupational Health and Safety Regulations

By: Ryan Conlin and Haadi Malik

In mid-late 2023, the Ontario Ministry of Labour, Immigration, Training and Skills Development (the “Ministry”) began conducting consultations on proposed or potential amendments to the *Ontario Occupational Health and Safety Act* Regulations (the “Regulations”). The first of these is with respect protecting workers from heat stress and heat-related illness, and the second is with respect to poor outdoor air quality and workplace health and safety. The details of these consultations and any current proposals are outlined below.

## ***Protecting Workers from Heat Stress and Heat Related Illnesses***

These proposed amendments would require employers to take steps to protect workers from exposure to hazardous thermal conditions under new guidelines. The Ministry has stated that these changes are proposed because of due to changes in our climate and the resulting extreme heat events are a growing health risk to workers in Ontario.

Currently, there are no specific regulations regarding protection against heat stress and heat related illnesses; the matter is covered under the general duty clause of the *Ontario Occupational Health and Safety Act* (the “Act”). The proposed legislation would introduce the following requirements:

- Introduce heat stress exposure limits based on the ACGIH method.
- Provide for the use of other methods to assess a worker’s risk of exposure to heat stress.
- Require employers to identify and implement measures and procedures to control heat exposures based on the “hierarchy of controls”, and
- Require employers to provide worker information and instruction on recognizing the signs and symptoms of heat-related illnesses and the measures to protect themselves.

Further, the following requirements would apply to employers:

- a duty to take all measures reasonably necessary in the circumstances to protect workers from exposure to conditions that may result in a heat-related illness or a worker’s core body temperature exceeding 38°C.
- a requirement to comply with heat stress exposure limits for light to very heavy work loads in accordance with methods used to determine heat exposures.
- a requirement to develop any additional measures and procedures beyond engineering controls to control heat exposures in writing in conjunction with the joint health and safety committee or health and safety representative, including details regarding administrative controls and the use of personal protective equipment.
- a requirement that cool, potable drinking water or another adequate hydrating fluid must be provided close to work areas.
- information and instruction that must be provided to employees on protective measures and procedures, the importance of hydration and rest periods, and early signs and symptoms of heat strain and heat-related illnesses.

- in areas where a heat warning has been issued, heat warning advisories for employees as well as the measures and procedures set out for staying hydrated and taking breaks and all identified rest periods.

### ***Poor Outdoor Air Quality and Workplace Health and Safety***

Outdoor air quality in Ontario can vary due to a variety of factors including pollutant emissions. The Act and its regulations do not specifically address poor outdoor air quality, so any employer obligations with respect to outdoor air quality fall under the general duty clause.

The Ministry has sought feedback on the following questions to determine whether poor outdoor air quality is an issue in Ontario workplaces and if legislative amendments need to be introduced. The Ministry asked the following questions:

- A. Does the nature of your work or workplace require workers to work outdoors during periods of poor outdoor air quality?
- B. If yes,
  - a. Does this have an impact on your workers ability to perform their duties and functions? How?
  - b. What control measures and procedures are you currently implementing to protect your workers?
- C. How can the government support your workplace or workers during times of poor outdoor air quality?

Interested parties were to provide comments by September 18, 2023. Next steps with respect to these proposals are to be announced and further updates will be provided as they become available.