

TABLE OF CONTENTS

<i>Dedication</i>	iii
<i>Foreword to the 4th Edition</i>	v
<i>Preface and Acknowledgments</i>	ix
<i>About the Authors</i>	xiii
INTRODUCTION — THE MORAL AND LEGAL RESPONSIBILITY OF EMPLOYERS	1
CHAPTER 1 — THE COVID-19 PANDEMIC AND SARS IN ONTARIO	9
1.1 SARS IN ONTARIO	12
CHAPTER 2 — FEAR OF A FLU PANDEMIC	17
2.1 THE H1N1 PANDEMIC	18
a) Impact on the Workplace	19
2.2 THE AVIAN FLU	21
a) Why Worry?	22
b) From the Past to an Unsettling Future	24
c) How Could an Avian Flu Outbreak Impact Your Work- place?	26
CHAPTER 3 — OBLIGATIONS ON EMPLOYERS	29
3.1 LEGAL OBLIGATIONS	30
3.2 MORAL OBLIGATIONS	30

Table of Contents

3.3 PRACTICAL STEPS FOR THE EVERYDAY HEALTH OF YOUR WORKPLACE 32

CHAPTER 4 — APPLICATION OF FUNDAMENTAL EMPLOYMENT LEGISLATION 35

4.1 HEALTH AND SAFETY 35

- a) Internal Responsibility System for Safe and Healthy Workplaces 35
- b) Health and Safety Legislation 36
- c) Education, Training, Communication and Action 37
- d) Duties of Supervisors 38
- e) Duties of Workers 38
- f) Public Health Emergencies are Not New 39
- g) Taking Steps to Prevent the Spread of Contagions 39
- h) Work Refusals 40
- i) Subjective Right to Refuse Work at the Outset 41
- j) First Stage — Internal Investigation 42
- k) Second Stage — the Objective Standard — External Investigation 43
- l) Reprisals 45
- m) Liability and Penalties under the OHSA..... 46
- n) Prosecution 48
- o) Defences 49
- p) Penalties 49

4.2 BILL C-45 50

- a) Criminalization of Health and Safety Offences 50
- b) Increased Liability for Organizations 52
- c) Increased Monetary Penalties 53

4.3 HUMAN RIGHTS 53

- a) Human Rights and Public Health 54
- b) Denying Access to the Workplace 56
- c) Duty to Accommodate 56

Table of Contents

d) Avoiding a Poisoned Workplace	57
e) Dealing with a Human Rights Complaint	58
f) Formal Complaint Process	59
4.4 EMPLOYMENT STANDARDS	60
a) Sick Leave	60
b) Family Responsibility Leave	61
c) Family Caregiver Leave	61
d) Family Medical Leave	62
e) Critical Illness Leave	63
f) Declared Emergency Leave	64
g) Infectious Disease Emergency Leave	65
h) Protections under the ESA	65
4.5 WORKERS' COMPENSATION	68
a) Qualifying for WSIB Benefits	68
b) Employer Obligations under the WSIA	68
c) Occupational Diseases	69
4.6 THE WSIB	70
a) COVID-19	70
b) SARS and West Nile	71
c) H1N1	73
4.7 THE <i>QUARANTINE ACT</i>	74
4.8 PRIVACY	75
a) PIPEDA	75
b) PHIPA	79
4.9 FEDERAL LEGISLATION TO PREPARE FOR PUBLIC EMERGENCIES	82
a) Bill C-5 — <i>Public Health Agency of Canada Act</i> ...	82
b) Bill C-12 — <i>Emergency Management Act</i>	83

Table of Contents

CHAPTER 5 — QUASI CRIMINAL ISSUES	85
5.1 QUARANTINE	85
5.2 OBLIGATION TO REPORT	86
5.3 ENFORCEMENT	86
5.4 DETENTION	87
5.5 RULES FOR EMPLOYERS	87
CHAPTER 6 — STATUTORY ISSUES SPECIFIC TO SARS AND COVID-19	89
6.1 SARS EMERGENCY LEAVE	89
6.2 INFECTIOUS DISEASE EMERGENCY LEAVE	91
6.3 COVID-19 EMERGENCY RESPONSE ACT	92
6.4 EMPLOYMENT INSURANCE	96
6.5 SARS GRANT INITIATIVE	97
CHAPTER 7 — HUMAN RESOURCES ISSUES	99
7.1 COMMUNICATION	99
a) Information	99
b) Methods of Communication	100
c) Contact List	100
d) Dealing with Unions	101

Table of Contents

7.2	MANAGING ABSENTEEISM	101
	a) Attendance Management	102
	b) Absenteeism Policy	102
	c) Human Rights Accommodation	103
	d) Information Relevant to Accommodation	103
	e) Problems with Co-operation	104
	f) Proper Documentation	108
	g) Dismissal for Blameless Absenteeism	108
	h) Indefinite Absenteeism	109
	i) Recurring Absenteeism	110
	j) Absences Due to Quarantine	112
	k) Consequences of Attending Work while Sick	113
7.3	DEALING WITH RETURN TO WORK ISSUES	115
	CHAPTER 8 — COMPENSATION ISSUES	117
8.1	SHORT-TERM DISABILITY BENEFITS	117
8.2	PAID LEAVE OF ABSENCE OR USE OF VACATION	117
8.3	WORKING FROM HOME	118
8.4	LEAVE OF ABSENCE WITHOUT PAY	118
8.5	EMPLOYMENT INSURANCE BENEFITS	118
8.6	COMPENSATION ISSUES FOR THE QUARANTINED WORKPLACE	118
	CHAPTER 9 — CONTINGENCY PLANNING FOR EMERGENCIES	121

Table of Contents

9.1 STEPS UNDERTAKEN BY EMPLOYERS IN THE DEVELOPMENT OF A CONTINGENCY PLAN	125
a) The Purpose of Planning	125
b) What Other Employers are Doing	126
c) Important Notes about Effective and Organic Plans	128
d) Overview	129
e) The Steps	129
Step 1. Establishing Committees and the Chain of Command	130
A) Management Committee	130
Step 2. Identifying and Assessing Priorities and Developing Contingency Plans	132
A) Personnel and Operating Concerns	132
B) Product and Service Delivery and Production Concerns	134
i) Product/Service Delivery	134
ii) Financial Obligations	135
iii) Labour Supply (Including Replacement Workers)	136
iv) Contingency Labour Supply Worksheet (Sample)	137
v) External Suppliers and Service Providers	138
vi) Utilities and Communications	139
vii) Cash Flow and Operating Capital	140
Step 3. Communicate the Plan	140
Step 4. Train and Explain as Necessary	141
Step 5. Maintain Copies	141
Step 6. Review and Update the Plan	141
Step 7. Assess and Amend the Plan	141
f) Business Contingency and Continuity Plan Summary	141

Table of Contents

9.2 VACCINATIONS	142
a) Voluntary Vaccinations	142
b) Mandatory Vaccinations	143
CHAPTER 10 — WORKING FROM HOME	147
10.1 BENEFITS OF WORKING FROM HOME	147
a) Planning Ahead	148
b) Duty to Accommodate	148
10.2 LIABILITIES ASSOCIATED WITH WORKING FROM HOME (WFH)	149
a) Health and Safety	149
b) Employment Standards	150
c) Constructive Dismissal	150
10.3 TELECOMMUTING (WFH) POLICIES AND AGREE- MENTS	151
a) Hours of Work	151
b) Duties and Responsibilities	151
c) Application of Workplace Policies	151
d) Ownership of Office Equipment and Documentation	151
e) Safety Inspections	152
f) Cancellation of Telecommuting Arrangements	152
g) Arrangements of What a Telecommuting Agreement is NOT	152
CHAPTER 11 — TRAVEL POLICIES	153
11.1 LIABILITY ISSUES	154
CHAPTER 12 — ISSUES SPECIFIC TO AIR TRAVEL WORKERS	157

Table of Contents

CHAPTER 13 — ISSUES SPECIFIC TO HEALTH CARE WORKERS	161
13.1 LIMITATIONS ON WORK REFUSALS	161
13.2 PERSONAL PROTECTIVE EQUIPMENT	162
13.3 INFECTION CONTROL PROCEDURES	164
13.4 DESIGNATION, INVESTIGATION AND REPORTING...	164
13.5 CATEGORIZING SARS AND OTHER INFECTIOUS DIS- EASES SUCH AS THE AVIAN FLU	166
13.6 EMERGENCY ORDERS DURING COVID-19	166
CHAPTER 14 — OTHER HEALTH RELATED ISSUES IN THE WORKPLACE	169
14.1 WEST NILE VIRUS	169
14.2 SECOND-HAND SMOKE IN THE WORKPLACE ...	174
14.3 CHEMICAL AND ENVIRONMENTAL SENSITIVITIES IN THE WORKPLACE	175
a) Workers' Compensation	175
b) Human Rights	177
14.4 POWER FAILURES	179
CONCLUSION — REDUCING RISK IN A COMPLEX WORLD	181
<i>Index</i>	183