

INDEX

Alberta government’s “Tips for preventing and managing incidents of violence or harassment”, 137–141

Bill 168, *see Occupational Health and Safety Act (OHSA) of Ontario*

British Columbia Workers Compensation Act Guidelines, Appendix, 115–135

***Criminal Code* and workplace violence**

- Bill C-45 amendments after Westray mining disaster, 81–83
- criminal liability of organizations showing reckless disregard for safety, 81
- criminal responsibility for negligence of organization’s representatives, 81–82
- intentional acts criminal responsibility, 82–83

Criminal liability for reckless disregard or negligence, 81-82

Criminal record

- *Human Rights Code*, 26
- limits to questioning, 26

Domestic violence, 59–60

- defined, 59
- employer to take reasonable precautions to protect workers, 60
- encourage reporting of potential danger from, 59

Duty of care, 17–18, *see also* Employers duties

- neighbour principle, 17–18

Duty to warn, 18–21, *see also* Negligence of employer

- “special relationship”, 18–19

Employers duties

- duty of care, 17–18

Violence in the Workplace

- negligent hiring, *see* Negligent hiring
- negligent retention, *see* Negligent retention
- negligent supervision, *see* Negligent supervision
- safe workplace, 21–23

Harassment in the workplace, defined, 14, *see also* Workplace harassment and OHS

Human Rights Code, *see* Ontario Human Rights Code

Joint Health and Safety Committee, 50–51, 53–54, 123

Liability

- causation, 21
- common law, 15
- duty of care, *see* Duty of care
- foreseeability, 21
- in tort, 15
- negligence claim, 16–17
- negligence of employer, 15–17
- statutory liability, 41, *see also* *Occupiers' Liability Act*; *Occupational Health and Safety Act*
- vicarious liability, *see* Vicarious liability

Negligence of employer, *see* Liability; Negligent hiring; Negligent retention; Negligent supervision

Negligent hiring, 23–28

- obligations of former employers, 27–28
- reasonable investigation/background check, 23–24
- screening steps by employer, 26

Negligent retention, 28–32

- duty of care, 29–31
- steps to demonstrate reasonable care, 31–32

Index

Negligent supervision, 32–33

Neighbour principle, 17–18

OHSA, *see Occupational Health and Safety Act*

Occupational Health and Safety Act (OHSA) of Ontario, 47–80,
see also Workplace violence and OHSA

- Bill 168, 51–52, 67–71
- case law re penalties for acts of workplace violence, 69–72
- case of suspension and not dismissal (*Kingston General Hospital*), 74–75
- determining penalty for acts of workplace violence, 68–69
- reproduced in Appendix, 105–113
- domestic violence, *see Domestic violence*
- duties of employers, 48–49, 50, 72–73
- duties of supervisors, 49, 50
- duties of workers, 49–50
- joint health and safety committee, *see Joint Health and Safety Committee*
- penalties under, *see Penalties*
- right to refuse unsafe work, *see Right to refuse unsafe work*
- workplace harassment, *see Workplace harassment and OHSA*
- workplace violence, *see Workplace violence and OHSA*

Occupiers' Liability Act, 41–47

- incident reporting system, 45
- “occupier” defined, 42
- preventative steps to reduce exposure to liability, 46
- reasonably foreseeable, 44–45
- statutory duty of care to all who enter premises, 41–44

Violence in the Workplace

Ontario *Human Rights Code*

- Board of Inquiry remedial powers, 85–86
- complaint by victim or by Ontario Human Rights Commission, 85
- harassment is prohibited activity in workplace, 83–84
- liability for harassment, 84–85
- monetary damages including for mental anguish, 86
- “organic theory of corporate responsibility”, 85
- racial harassment in workplace, 86–87
- • case law (*Hinds v. Canada* and *Persaud v. Consumers Distributing*), 87
- • “racially poisoned atmosphere”, 86
- sexual harassment in workplace, 84, 87–91

Penalties under OHSA, 63

Policies and procedures re workplace violence and harassment, *see* Workplace harassment and OHSA; Workplace violence and OHSA

Provincial statutes to prevent violence in workplace, 47–48

Racial harassment, 86–87

Racially poisoned atmosphere, 86–87

Right to refuse unsafe work, 65–67

- reporting and inspection of unsafe workplace situation, 65–66
- risk of violence where inherent in employee’s work, 66–67
- work refusal by truckers fearing violence (*Trimble & Sons*), 67

Safe workplace, 21–23

“Salmond test”, 34–36

Sexual harassment, 87–91, *see also* Ontario *Human Rights Code*

Vicarious liability, 15, 33–41

Index

- authorized representative of employer, 34
 - “deep pockets” of employer, 34
 - effective compensation and deterrence, 36, 38
 - imputation of liability through law, 33
 - preconditions for, 34
 - *respondeat superior*, 34
 - risk in employer’s enterprise and wrong, 36–37
 - Salmond test, 34–36
 - “scope of employment” concept, 34–35
- Violence in the workplace**, *see also* Workplace violence and OHS
- causes, 7–8
 - costs of, 9–10
 - defined, 14
 - introduction to, 1–11
 - examples of, 1–4
 - frequency of, 5–7
 - purposes of book, 10–11
 - statistics on, 5–7
 - provincial statutes to prevent, 47–48, *see also* *Occupational Health and Safety Act (OHS)* of Ontario
- Workplace harassment and OHS**, *see also* *Ontario Human Rights Code*
- case law (*Amodeo v. Craig Lee Nursing Home*) did not amount to vexatious comments, 76–78
 - constructive dismissal (*General Motors*) and poisoned workplace, 78–80
 - defined, 14
 - employers to develop program to implement policy, 62

Violence in the Workplace

- employers must prepare policy, 61–63, 93–94
- components of, 62–63
- information/instruction for employees on policy, 63
- investigation of complaint procedures, 92–93
- Law Society of Upper Canada sample policy for workplace harassment, 91–92
- school case (*Parsons*) did not amount to vexatious comment or conduct, 73–74

Workplace Safety and Insurance Act (Ontario), 95–99

- limitation of civil actions, 95–99

Workplace shooting, OC Transpo, 4, 103

Workplace violence, *see* Violence in the workplace

Workplace violence and OHSA, *see also* Ontario *Human Rights Code*

- assessment of risks by employer, 53–56
- report to JHSC or employees, 53–54
- tips for assessment, 54–55
- *Criminal Code*, *see* *Criminal Code*
- defined, 14
- examples of, 13–14
- information/instruction for employees on policy, 57–58, 72–73
- advise employees where risk exists from persons with history of violent behavior, 57–58
- policy required by employer, 52–53, 72–73, 93–94
- guidelines to designing, 99–102
- program to implement the policy, 56
- suggestions to prevent violence in workplace, 102–103