

New Rules for Ontario Workplaces:

Bill 27, the *Working for Workers Act, 2021*

December 2, 2021

On November 30, [Bill 27, the *Working for Workers Act, 2021*](#), was passed into law with an effective date still to be determined by the date of this post.

The bill introduces two important new changes that will likely impact all workplaces in Ontario. There are significant details that are still to be determined, but here are the broad strokes:

Disconnect from Work

If, as of January 1, 2022, an Ontario employer employs 25 or more employees, it will have until July 1, 2022, to establish a written policy that ensures employees have the right to disconnect from work. This means “not engaging in work-related communications, including emails, telephone calls, video calls or the sending or reviewing of other messages, so as to be free from the performance of work.”

The particulars required for these policies are to be detailed in regulations, which we have not seen yet. All employees must be given a copy of the employer’s policy within 30 days of its finalization or within 30 days of their first day of work. This new section appears to be part of the *Employment Standards Act* which does not apply to certain types of employees, e.g. professionally regulated employees such as engineers, accountants, lawyers, medical professionals, teachers, salespeople/brokers defined by the Real Estate and Business Brokers Act, and salespeople who make their sales away from the workplace. Other employees may be exempted, including managers, but until the regulations are disclosed, these details are unknown.

This new employee right will come into effect when this Act receives Royal Assent, which we are told is imminent.

Non-Competition Agreements

This new law will prohibit employers from entering into employment or other agreements that include a non-competition agreement, unless the employee is:

- i) a former owner who sells their business and remains employed with the purchaser; or
- ii) an executive - defined as a person holding very specific office, eg. “office of Chief Executive Officer, President, Chief Administrative Officer, Chief Operating Officer, Chief Financial



Officer, Chief Information Officer, Chief Legal Officer, Chief Human Resource Officer or Chief Corporate Development Officer or holds any other chief executive position.”

The definition of “non-competition agreement” is an agreement or part of an agreement where the employee is prohibited from engaging in any business, work, occupation, profession, project, or other activity that is in competition with the employer’s business after the employment relationship between the employee and the employer ends. The bill states that if an employer enters into such an agreement, it will be deemed to be void (unless the exemptions apply).

This part of Bill 27 is deemed to come into effect on October 25, 2021. We do not know yet how this section will impact pre-existing non-competition covenants.

There are still many details to be determined but employers should be aware of these new obligations on the horizon. If you have questions or would like to discuss how this impacts your workplace, please reach out to any of our Employment and Labour lawyers, Tracy Kay at tkay@mindengross.com or Andrew Zinman at azinman@mindengross.com

This article is intended to provide general information only and not legal advice. This information should not be acted upon without prior consultation with legal advisors.