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Have You Reviewed Your Employment Policies Lately?

January is a great time of year to review your employment policies, practices and documents, especially now. We saw a vast number of changes in 2022 and more are expected in 2023. To help you with your review, we've compiled the Top 10 questions you should ask to get started:

1. Employment Contracts

Have you taken a look at your employment contracts or offer letters in the last year? Given [changes in the law](#), most termination provisions drafted before 2022 are unenforceable. Now may be a good time to revise those provisions for new employees and consider whether you wish to do so for current employees.

2. Non-Compete Agreements

Ontario employers are [no longer permitted to enter into non-compete agreements](#) with almost all employees. Is your organization still including non-compete provisions in its employment contracts, offer letters or confidentiality agreements? Consider reviewing those agreements to remove non-compete provisions and beefing-up your non-solicit and confidentiality provisions.

3. Disconnecting From Work

If you have more than 25 employees in Ontario, have you implemented your [Disconnecting from Work Policy](#)? If not, now is a good time to do so since employers were required to have a written policy on disconnecting from work by June 2, 2022, and to provide it to employees by July 2022.

4. Electronic Monitoring

If you have more than 25 employees in Ontario, you were required to have by October 11, 2022, and provide to employees by November 10, 2022, an [Electronic Monitoring Policy](#). Is yours in place? If not, you will want to implement this policy because almost all employers monitor employees electronically in some fashion.

5. New Paid Leave for Federally Regulated Employers

Are you federally regulated? Effective December 1, 2022, federally regulated employees became entitled to [10 days of paid sick leave](#). You should consider how these new *paid* leave entitlements will interact with your existing leave programs.

6. Equity, Diversity and Inclusion (EDI)

You undoubtedly have discrimination and harassment policies. But have they been reviewed from an equity, diversity and inclusion perspective? Recent decisions have confirmed that [misgendering or the incorrect use of pronouns in the workplace can amount to discrimination in employment](#). You may wish to review those policies and consider other ways you can normalize discussions around pronouns and gender in the workplace.



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7. Environmental, Social and Governance (ESG)

Did you know there is a tort of **human trafficking** in Ontario? Pursuant to the [Prevention of and Remedies for Human Trafficking Act, 2017](#), a victim of human trafficking can bring an action against any person (which includes a company or employer) who engaged in the human trafficking. Human trafficking is defined as a person exercising control, direction or influence over the movements of a person for the purpose of exploiting them or facilitating their exploitation. A temporary foreign worker in Ontario recently did so. Although the court in [Osmani v. Universal Structural Restorations Ltd.](#) dismissed the employee's human trafficking claim, you should keep this tort in mind when dealing with employees, particularly temporary foreign workers.

8. Wage-Fixing / No-Poaching

Beginning June 2023, the [criminal conspiracy offences under Canada's Competition Act will prohibit](#) wage-fixing and no-poaching agreements. The penalties are significant. Are you in compliance? Get ahead of the deadline by reviewing your practices to ensure your organization does not have such agreements or cannot be perceived as facilitating such arrangements.

9. Health and Safety

Are you and your people prepared? Effective June 1, 2023, many Ontario employers will be required to have a [naloxone kit in the workplace](#). If you are aware, or ought reasonably to be aware, that there may be a risk of a worker having an opioid overdose at your workplace, start thinking about how you are going to set up this program.

10. Manage Risk

Are you confident in your risk mitigation strategies? While the above is not an exhaustive list, it provides a starting point for you to review your policies, procedures and other employment-related documentation to ensure compliance and mitigate risk within your workplace.

This resource is also available [online](#). To learn more about how Fasken can help your business thrive, please contact Karen M. Sargeant, head of Ontario's Labour, Employment & Human Rights group at ksargeant@fasken.com or your existing Fasken key contact.

