Human Resources Legislative Update

Ontario Announces Legislative Review of the *Police Record Checks Reform Act, 2015*

Date: August 3, 2023

The Ministry of the Solicitor General is conducting a legislative review of the *Police Record Checks Reform Act, 2015* (*PRCRA*). The legislative review was announced on the government's Regulatory Registry.

The *PRCRA* was proclaimed into force in November of 2018 and established standards governing how a "police record check (PRC) is conducted and disclosed in Ontario." The purposes of the *PRCRA* are to "promote public safety" by regulating record checks and to establish "consistent practices around what information is disclosed in PRCs and how it is done." The *PRCRA* establishes three types of PRCs and restricts the information that can be included in each type. It also establishes consent requirements that must be satisfied prior to conducting a PRC and disclosing it to a third party such as an employer.

The legislative review is being conducted under section 21 of the *PRCRA*, which requires a review after five years of the *Act* being in force. According to the Ministry's Consultation Paper, the purpose of the legislative review is to "determine whether the *PRCRA* is achieving its policy intent of standardizing the police record check process while balancing public safety and privacy rights." The paper also states that the legislative review "aims to gather information related to issues not directly governed by the *PRCRA*" such as:

- baselines, minimum requirements, reusability and validity periods for police record checks
- issues that impact the delivery of police record checks, such as processing times and how frequently checks are required/requested
- employment opportunities for those with a criminal record and connection to public safety
- the impact(s) of record check requirements on the supply and demand of volunteers
- the impact of police record checks on the resource capacity of police services, municipalities and Ontarians

As part of the legislative review, the Ministry has published a consultation paper to seek feedback from the public on four themes related to the *PRCRA*:

- balancing public safety and privacy rights
- service delivery
- impact of PRC requirements on volunteering and employment opportunities
- additional feedback

The consultation paper contains various engagement questions related to all four themes aimed at identifying potential improvements to the *PRCRA*.

Considerations for Employers

Amendments to the *PRCRA* could influence employers' hiring and recruitment processes. PRCs are of great importance for many employers when hiring both employees and volunteers, especially in safety-sensitive positions involving trust or authority over vulnerable persons. Thus, the legislative review should be of interest to employers with screening processes that include PRCs. For instance, an area undergoing legislative review is whether PRCs should be subject to regulated validity periods. The *PRCRA* does not currently regulate the validity periods of PRCs or how frequently employers can

request a PRC. If this legislative review results in further regulation, the frequency that employers can request PRCs may be impacted.

Employers may submit comments and feedback to the government at Ontario's Regulatory Registry. The deadline for submitting feedback is **September 13, 2023**.

Should you have any questions about the *PRCRA*, PRCs or the legislative review, contact your regular Hicks Morley lawyer.