Human Resources Legislative Update

New Federal Online Harms Bill: Possible Implications for Federal Employers

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The federal government tabled Bill C-63, the *Online Harms Act* (Bill C-63) on February 26, 2024. Bill C-63 aims to curb online harms, especially to children, by targeting the spread of harmful content on social media. If passed, key features would include the establishment of the Digital Safety Commission of Canada, the introduction of an ombudsperson for online safety, amendments to the *Criminal Code* to address online hate crimes more specifically, and amendments to the *Canadian Human Rights Act* (*Act*).

If Bill C-63 is passed, federally regulated employers would have to consider the potential impact of the amendments to the *Act* which would permit complaints about online hate to be filed with the Canadian Human Rights Commission. These new amendments are similar to the old section 13 provisions of the *Act*, which dealt with hate messages which were “likely to expose a person or persons to hatred or contempt” due to prohibited grounds (race, sex, gender, etc.). That section was repealed in 2013.

While it is unlikely hate speech will have a direct connection to the workplace, if Bill C-63 is passed complainants may attempt to implicate employers in the complaints process. Although employers are not normally held responsible for the online activities of employees unrelated to their employment duties, there are some situations where they can be held vicariously liable for employee actions which do have a link to their employment. The implications in such cases could be significant: potential human rights investigations, reputational damage, and orders to pay damages.

Federal employers may want to turn their minds to updating their policies on acceptable use of IT resources, proactively addressing anti-hate speech policies (either as a component of existing policies on harassment and discrimination, proper communications and appropriate use of IT resources, or possibly even as a stand-alone policy), conducting employee training, and enhancing monitoring of the appropriate use of IT resources within the workplace.

It is important to review and update these policies on a regular basis regardless of legislative developments, but if Bill C-63 is passed it will create a further incentive for employers to ensure their policies adequately address these concerns.