

Submission to:

Standing Committee on Justice Policy

Bill 218

Supporting Ontario's Recovery and Municipal Elections Act, 2020

From:

The Interfaith Social Assistance Reform Coalition (ISARC)

Rev. Susan Eagle – Chair – ISARC

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Summary Recommendations for Amendments to Schedule 1

Amend Section 4 by adding Section 2.1 as follows:

1. WSIA is amended to provide compensation for those who are required to quarantine because of exposure to others who have COVID-19, either directly or indirectly through a member of their immediate family.
2. WSIA is amended to cover all companies in respect of its workers or independent contractors providing key services for that company.
3. WSIA is amended to provide income protection for all workers who refuse to attend at work because of a reasonable fear that they may contract COVID-19, until there is a final decision from the Ontario Labour Relations Board that the worker did not have a reasonable basis for the refusal.
4. Schedule 4 of the WSIA is amended to contain an irrebuttable presumption of work-relatedness for health conditions related to COVID-19

Introduction

The Interfaith Social Assistance Reform Coalition welcomes the opportunity to provide input to your Committee in respect of the content of Bill 218 “Supporting Ontario's Recovery and Municipal Elections Act, 2020”, primarily dealing with responsibility for the damages related to COVID-19.

Our Coalition represents the broad range of faith communities throughout the Province of Ontario. ISARC has acted as an advocacy organization for over 30 years on behalf of the marginalized in Ontario, and in particular to secure for them safe housing and safe employment. Our record includes being accepted as an Intervener in the Gillese Inquiry and our advocacy in support of the minimum daily average of 4 hours of front line touch time care for residents of long term care homes.

Position

Section 4 of Schedule 1 sets out the consequences of for employees who are impacted by COVID-19 while working for employers who are granted protection by this Bill. It expressly exempts such claims from the lower standard of liability. However Section 4 does not go far enough.

We are concerned that workers will feel coerced to return to work in situations where the Employer is not operating a healthy and safe workplace. Many workers have a statutory right to refuse work they reasonably consider to be dangerous under Section 43 of the Occupational Health and Safety Act (OHSA). Any protections created by Section 2 should not apply until the worker protections under the OHSA against recrimination for refusing to work is extended until the outcome of appeals to the Ontario Labour Relations Board under Section 61 of that Act or unless WSIA is amended to mandate WSIB coverage for such workers..

Public policy in Ontario has for over half a century has barred workers from suing their employers for injuries or illness incurred in the workplace. The quid pro quo is that such workers were guaranteed compensation through Workers Safety and Insurance Act (WSIA), which is administered by the Workers Safety and Insurance Board (WSIB). However not all workers are covered by WSIB, one important example for COVID-19 purposes are workers in Retirement Homes. Another group of persons providing essential services for the companies that retain them are not covered because they are classified as “independent contractors”.

As well WSIB relief must be available not only for workers who contract COVID-19 but also to workers who have to quarantine because of exposure to others who have COVID-19, either directly or indirectly through a member of their immediate family.

Finally, COVID-19 can be contracted in a variety of sites. Even though Section 4 of Schedule 1 exempts WSIB and other workplace injury claims from the higher standard of liability in Section 2, there is nothing stopping the employer from claiming that the employee did not contract the disease from their specific workplace. It will be very difficult for the worker to prove that the disease was contracted at the workplace and not on the way into work or going home from work on in some other reasonable action that the worker engaged in. WSIA already has a process for avoiding this need for proof in environments where contracting the injury or illness is more likely. Section 2 protections should not apply until Schedule 4 of the WSIA is amended to contain an irrebuttable presumption of work- relatedness for health conditions related to COVID-19.

ISARC represents Christian, Jewish, Muslim and other faith communities across Ontario, including the Anglican Diocese of Toronto, the Anglican Provincial Synod of Ontario, the Assembly of Catholic Bishops of Ontario, the Canadian Unitarian Council, Catholic Charities of the Archdiocese of Toronto, the Council of Imams, the Council of Canadian Hindus, the Eastern Synod of the Evangelical Lutheran Church in Canada, the Eastern Ontario District of the Pentecostal Assemblies of Canada, the Islamic Humanitarian Service, Mennonite Central Committee Ontario, the Presbyterian Church in Canada, the Society of St. Vincent de Paul, the Toronto Board of Rabbis, and the United Church of Canada.