



**KPMG Law LLP
Barristers + Solicitors**

Norm Keith
Bay Adelaide Centre
333 Bay Street, Suite 4600
Toronto, Ontario M5H 2S5
Direct: 416-476-2002
Email: nkeith@kpmg.ca

Privileged and Confidential

May 2, 2022

Sent Via Email: steven.crombie@oswca.org

Steven Crombie
Manager - Government Relations and Public Affairs
Greater Toronto Sewer & Watermain Contractors Association
5045 Orbitor Drive
Unit 12, Suite 400
Mississauga, ON L4W 4Y4

Dear Mr. Crombie:

Re: Bill 27 - Right to Disconnect from Work Policy

Further to our call last week, and to the draft Right to disconnect from Work Policy, here are some general guidelines that you may want to consider providing your members when you distribute the draft policy.

Bill 27 and “Disconnecting from work”

How is “disconnecting from work” defined by Bill 27?

“Disconnecting from work” is defined to mean:

...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.

What do the “disconnecting from work” provisions mean for my organization?

Bill 27 does not create a right for employees to disconnect from work. Bill 27 simply requires most employers to create a policy that sets out the employer’s approach to disconnecting. The ESA does not stipulate what this approach must be.

Employers must have their disconnecting from work policy in place by June 2, 2022 and must:

- Provide a copy of their disconnecting from work policy to each employee within 30 days of preparing the policy.
- Retain copies of the disconnecting from work policy for three years after the policy ceases to be in effect.

What should a “disconnecting from work” policy consider?

Bill 27 requires the policy to include the date it was prepared and any dates that it was amended. This is the only stipulated requirement and so the remaining policy terms are up to the employer.

Appropriate terms will vary by organization. However, suggested content includes:

- The scope of disconnecting and whether it is limited to work-related communications
- Whether there are certain windows of time outside of which employees may disconnect
- Whether there are certain circumstances/work that should be included in – or excluded from – any right to disconnect
- Expectations for response times to voicemails and emails and when to set an “out of office”

Does a “disconnecting from work” policy apply to all of my organization’s employees?

The policy must apply to all of an employer’s employees who work in Ontario – regardless of role and whether the employee is full time, part time or temporary. This includes management and executive employees. While an employer may have a single policy that applies to all of its employees in the same way, an employer may also create different policies for different groups of employees.

Do the “disconnecting from work” provisions impact other sections of the ESA?

There is nothing in Bill 27 to indicate that “disconnecting from work” policies will impact or replace the usual ESA provisions that control how much employees work, such as hours of work, periods of rest, and overtime provisions.



How is the 25-employee threshold counted?

Only those employers with 25 employees or more must have a written disconnecting from work policy. This considers all of the employer's Ontario employees, even if they are stretched across multiple locations. For example, if your organization has 2 locations with 15 employees each, there are 30 employees total and so a policy must be in place at each location.

Yours truly,

KPMG Law LLP

A handwritten signature in black ink, appearing to read 'Norm Keith', with a large, sweeping flourish at the end.

Norm Keith
Partner

cc. Patrick McManus