



WSIB Releases Administrative Document For Mandatory Coverage

As we all know most businesses in Ontario that employ workers are covered by the WSIB. Now, as previously reported in this Newsletter, under new Workplace Safety and Insurance Act (WSIA) legislation, independent operators, sole proprietors, some partners in a partnership and some executive officers who work in construction will also be required to have coverage starting in 2013.



After consultations with industry stakeholders, the Workplace Safety and Insurance Board (WSIB) has finalized its Administrative Practice Documents (APD) with respect to Mandatory Coverage. These documents were created to assist employers and employees by “providing detailed examples to help people better understand the new rules” for Mandatory WSIB Coverage in the construction industry.

These new rules, effective on January 1, 2013, will deem every independent operator and sole proprietor carrying on business in construction, who is otherwise not exempt under the new policy, a worker under the WSIA. “Every partner or executive officer of a partnership or corporation, respectively, that carries on business in construction, is a deemed worker, unless exempt under this policy. Where no other workers are hired, the sole proprietorship, partnership or corporation, as the case may be, is deemed an employer for the sole proprietor, partner(s) or executive officer(s). In this policy, ‘deemed employers’ may be referred to as employers. Deemed workers and deemed employers in construction are subject to the rights and obligations of workers and employers under the WSIA.”

Pre-registration for sole proprietors and independent operators is now available on the WSIB website and everyone is encouraged to pre-register early. Furthermore, all stakeholders are encouraged by the WSIB to ensure they know and understand the law and policies that expand the mandatory coverage in the industry so that everyone meets their obligations under the act.

Members who would like to obtain more information or to read the Administrative Practice Documents for mandatory coverage in construction can visit the WSIB web site and obtain the following documents on line:

- Expanded Compulsory Coverage
- Insurable Earnings in Construction
- Want to learn more: BeRegisteredBeReady.ca
- Want to read the Frequently Asked Questions?
- Want to read the policies?
- Want to read the legislation?

The Mathews Dinsdale Minute



Section 50 of the Occupational Health & Safety Act (the “Act”) prohibits an employer or person acting on behalf of an employer from threatening, firing, penalizing or coercing a worker because the worker has acted in compliance with the Act or sought to enforce rights under the Act.

An allegation that an employer has violated Section 50 is usually heard by the Labour Relations Board (“Board”) and, until recently, was triggered by the employee filing a complaint. These complaints are very significant because the Board has wide remedial authority, including the ability to award compensation to the employee, to order the employee reinstated and to remove any penalty the Board finds has been imposed. These matters are often heard by way of an consultation before the Board and the burden is on the employer to prove that they have not violated Section 50 of the Act. Obviously, these are serious matters.

As already noted, historically an employee claiming a reprisal had to contact the Labour Board, secure the appropriate forms and file a complaint under Section 50. However, under a new program recently introduced this is no longer the only way that these complaints can be brought. Health and Safety Inspectors are now able to initiate Section 50 complaints for employees.

If a Section 50 concern is raised with an Inspector by an employee, the Inspector is now empowered to interview the worker and assist the employee with preparing the Section 50 paperwork. Once this is done, the Inspector can file the materials with the Board for the employee and provide copies to the Responding Parties. This then triggers the process for an employer to prepare and file a response and for the matter to move towards a hearing. Once the complaint is filed the Inspector no longer plays a role.

It remains to be seen whether this new process will increase the number of Section 50 complaints that are filed or otherwise have a significant impact on the system. Given the reverse proof obligations and potential remedies that are available, these applications are very serious and should always command your immediate attention.



WSIB Rates To Increase 2.5% In 2013



As we advised in the November issue of this newsletter, the Workplace Safety and Insurance Board (WSIB) announced that employer premium rates will increase by an average of 2.5% across all rate groups in 2013. Inside finishing (rate group #719) will increase by 18¢ to \$7.51 up from \$7.33 in 2012 — a 2.46% increase. In addition, the maximum insurable earnings ceiling for 2013 will be increase by 1.84% to \$83,200 from the 2012 ceiling of \$81,700.



32 Vancho Crescent
Etobicoke, Ontario
M9A 4Z2

Phone: 416-605-6417
Fax: 416-240-1465
E-mail: aao@bellnet.ca

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