

Upcoming Amendments to the Workers' Compensation Act and the Occupational Health and Safety Act

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There are a number of recent and significant amendments to the New Brunswick *Workers Compensation Act* and the *Occupational Health and Safety Act* which will come into effect on **June 1, 2014**.

WORKERS COMPENSATION ACT

Time Limitation for an Application of Compensation

Currently, an application for compensation for a workplace accident must be brought within one (1) year after the occurrence of the accident (no change). However, in the case of death, the application will now need to be brought within six (6) months from the date of the accident, as opposed to six (6) months from the time of death. The Workers Compensation Commission (the "Commission") has the discretion to honour a claim that is brought outside of the prescribed time periods.

Employer to Notify the Commission of an Occurrence

The Employer notice provisions will remain much the same. However, effective June 1, 2014, Employers will be required to notify the Commission if a worker is diagnosed with an occupational disease. Notice must be received by the Commission within three (3) days after the date of diagnosis.

Other Amendments

Currently, the *Act* sets out procedures for how a worker may serve notice of an accident to their Employer. The amendments will repeal this section. Effective June 1, 2014 Employers will be required to institute a procedure that requires workers to notify the Employer of all workplace accidents.

In other words, the Employer must be given notice of a worker's accident but as of June 1, 2014 there will no longer be legislated requirements on how a worker is to give notice to his/her Employer. Rather, Employers will be required to establish their own reporting requirements for workers.

OCCUPATIONAL HEALTH AND SAFETY ACT

Establishing and Filing a Safety Policy & Health and Safety Program

Under the current *Act* an Employer must establish and file with the Commission a safety policy, if they regularly employ twenty (20) or more employees "at a place of employment". Effective June 1, 2014 a safety policy will be required when an Employer has twenty (20) or more employees regularly employed "in the province". The safety policy must be established in consultation with the employees and must set out the respective responsibilities of the Employer and employees. The Employer must file the policy with the Commission, keep a copy at each place of employment, and must make it available to a health and safety officer upon request.

Additionally, as of June 1, 2014 every Employer with twenty (20) or more employees regularly employed in the province will be required to establish a written health and safety program, in consultation with the health and safety representative/committee, which must address the following matters:

- The training and supervision of employees in matters of health and safety;
- The preparation of procedures for the implementation of health and safety practices;
- Identification of the types of work for which these health and safety practices are required;
- A hazardous identification system including: the evaluation of the place of employment for potential hazards, procedures and schedules for inspections, and procedures for the reporting of hazards;
- A system for the prompt investigation of hazardous occurrences;
- A record management system including: reports of employee training, accident statistics, work procedures and health and safety inspections, maintenance, follow-up and investigations; and
- Monitoring the implementation of effectiveness of the program.

This program must be reviewed once a year by the Employer and the health and safety representative/committee. The Employer is to make a copy of the program available to the health and safety representative/committee and to any employee upon request.

Orientation and Safety Training

The amendments require all new employees receive orientation and training before they begin work unless the Employer is satisfied by written documentation that the new employee has satisfactory training from a previous Employer or third party, in which case only orientation is required. **If there is a change in the hazards of a position, this may deem an employee to be a “new employee” who would need additional training and orientation.**

The Employer must keep records of employee orientation and training for at least three (3) years. The new employee orientation must include:

- The name and contact information of their supervisor;
- The contact information of the health and safety representative or committee;
- Their rights, liabilities and duties under the *Act and Regulations*;
- The health and safety procedures related to their tasks;
- The location of first aid facilities and how to obtain first aid;
- The procedures related to the reporting of illnesses, injuries, and emergencies;
- The use of personal protective equipment, if applicable.

Report of Compliance with an Order of an Officer

As of June 1, 2014, if an occupational health and safety officer makes an order, the officer may require the Employer to provide a written report detailing their compliance with the order. The report must be signed by the Employer and the health and safety representative/committee. The officer may set out the time period for submission of the report.

Notice of Employee Injury

Effective June 1, 2014 Employers will be required to immediately notify the Commission of an employee's injury if the injury results in:

- A loss of consciousness;
- An amputation;
- A fracture other than to the fingers or toes;
- A burn that requires medical attention;
- A loss of vision;
- A deep laceration;
- Admission to a hospital as an in-patient; or
- Death.

Immediate notice is also required for an accidental explosion or accidental exposure to a biological, chemical or physical agent at a place of employment, whether or not a person is injured. A catastrophic event or a catastrophic equipment failure that occurs at a place of employment that results, or could have resulted in an injury will also require immediate notice.

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