



Executive Director's Report

Ministry of Labour (MOL) Update

New Obligations under the Accessibility for Ontarians with Disabilities Act (AODA)

As most employers are already aware, the AODA was passed in 2005 and brings with it a number of requirements for employers, related to ensuring their workplace is accessible for employees, clients, and the public at large. **Construction companies are not exempt from this legislation.**

Another important piece of legislation under the AODA was passed by the Ontario government in 2011 – the Integrated Accessibility Standard Regulation (IASR). The IASR affects nearly all employers in Ontario that have at least one employee.

The IASR has rolling deadlines for various employment and information & communication accessibility requirements **and there are important deadlines approaching for small and large private employers in the beginning of 2016. Employers need to ensure compliance or risk facing big fines.**

Small Private Employers (1 - 49 employees)

As of January 1, 2016 small employers will be required to adhere to two important accessibility features of the IASR: training and feedback mechanisms:

Training

Section 7 of the IASR requires that all employees, volunteers, persons involved in developing policies, and persons providing goods/services on behalf of the organization shall be trained on this IASR and the Ontario Human Rights Code as it relates to disability.

Feedback Mechanisms

Section 11 of the IASR states that employers with an existing process/mechanism by which employees, clients, or the public can provide feedback shall offer the process in an accessible format for people with disabilities. Organizations should have a means by which an accessibility request can be made and notify the public that accessible formats can be arranged upon request. Large Private employers were required to comply with the above requirements by January 1, 2015.

Large Private Employers (50+ employees)

As of January 1, 2016 large employers will be required to adhere to three new accessibility features of the IASR: accessible formats/communication support, accommodation during recruitment and a process for accommodation during employment:

Accessible Formats/Communication Support

Section 12 of the IASR requires that all information and communication be arranged for and provided in an accessible format upon request. This requires that employers set up a process by which requests can be made.

Accommodation During Recruitment

Sections 22-24 of the IASR states that potential and successful applicants must be informed that accommodations are available upon request related to any material or process during recruitment, assessment and selection. As well, large employers are required to consult with the applicant to arrange for a suitable accommodation.

Accommodation During Employment

The IASR requires that employers take the following steps with respect to existing and new employees:

- Inform employees of existing policies (and changes to policies) used to support employee with disabilities.
- Provide job and workplace related information in an accessible format.
- Develop a process for creating individual accommodation plans and return to work plans.
- Ensure that the accessibility needs of employees are taken into account when considering performance management, career development/advancement and redeployment.

Prior to the above deadlines for small and large employers, the Ministry of Economic Development, Employment and Infrastructure has announced targeted AODA audits this fall. The blitz will be directed at retail companies with 500 or more employees and focused on, but not limited to, requirements of creating a public multi-year accessibility plan and developing customized emergency plans for employees with disabilities.

It is expected that these compliance audits will continue as new requirements are continually rolled out under the AODA and its regulations.

Of note is that Mathews Dinsdale are having a complimentary Webinar where you can learn more, "AODA: Understanding Your 2016 Obligations" on November 3, 2015 from 8 am to 9:30 am. To register please go to: www.mathewsdinsdale.com

New Joint Health and Safety Committee (JHSC) Certification Training

On October 1st 2015, the Chief Prevention Officer (CPO) established:

- 1) the new Joint Health and Safety Committee (JHSC) Certification Training Program Standard;
- 2) the new JHSC Certification Training Provider Standard and;
- 3) new training and other requirements for JHSC learners

The Standards and the training and other requirements (posted on the ministry website) will be effective **March 1, 2016**, which means that after that date: any JHSC members wishing to become certified must meet the new training and other requirements in order to be certified; and, training providers must be approved to provide JHSC Certification programs that meet the new Standards.

Under the training and other requirements, to become certified, a JHSC member must complete **both Part One and Part Two** of a CPO-approved JHSC certification training program delivered by a CPO-approved JHSC certification training provider (just like the new Working At Heights training); and will be required to take a **refresher training program every three years** to maintain their certification.

Members certified under the 1996 Standards continue to be certified and will not be subject to additional requirements to maintain their certifications, including Refresher training. The 1996 Certification Standards will remain in effect until February 29, 2016.

In order to deliver JHSC Certification Training as of March 1, 2016, all training providers (including existing approved providers and potential providers) will need to apply to the MOL for CPO approval under the new JHSC Certification Training Standards starting October 1, 2015. Training providers approved under the new Standards may begin to deliver the new JHSC Certification training as of March 1, 2016. Training providers approved under the 1996 Standard can continue to provide JHSC training under the 1996 Standard until February 29, 2016. **A list of all CPO-approved JHSC certification training providers will be posted to the MOL website in winter 2016 as they are approved.**

The format of the JHSC Certification Training Program is:

Part One Training: is generic and will be applicable to all workplaces where a JHSC is required. Training is based on health and safety topics, including information on legislative requirements and the roles and responsibilities of workplace parties under the OHS Act. Part One training is a minimum of 3 days (19.5 hours) and a portion can be delivered via eLearning for up to 6.5 hours. This is learning delivered electronically so learners can set their own pace, for example, by using a computer-based training course. Only specific learning outcomes from Part One will be allowed to be delivered via eLearning.

Part Two Training: will focus on a minimum of six hazards relevant to the workplace, and the training is based on the application of Recognize, Assess, Control and Evaluate (RACE) methodology to those hazard controls. Guidance material will be posted to the MOL website to assist in the selection of hazards relevant to their workplace. The minimum duration of JHSC Part Two training is 2 days (13 hours).

Refresher: will be a review of concepts from Part One and Part Two JHSC certification training. The minimum duration for Refresher training is 1 day (6.5 hours).

Upcoming November Events

Carpenters Joint Labour-Management Meeting

“An Exchange of Economic and Competitive Challenges” November 3rd, 2015

(Robert Troup, Doug Smith, Dave Gibson, Bob Grassing, Forese Bertoia, Rick Kok, Steve Creces & Paul Gunning attending)

IHSA Construction Legislative Review Committee Meeting November 4, 2015

(Paul Gunning attending)

IHSA Drywall Trade Labour-Management Health & Safety Committee Meeting November 26, 2015

(Paul Gunning attending)

Take Advantage Of These FREE ONLINE November OEA WSIB Webinars

Copy the following URL to your browser to register:

<http://www.employeradviser.ca/en/construction-employer/> (see right side “Upcoming Events”)

Webinars are under “Upcoming Events” on the right side.

WSIB Update, an Employer’s Perspective Webinar

November 5, 2015 - 10:00 a.m. – 11:00 a.m.

An Introduction to Workplace Safety and Insurance in Ontario Webinar

November 19, 2015 - 10:00 a.m. – 11:00 a.m.

SIEF & Other Cost Reduction Tools Webinar

November 26, 2015 - 10:00 a.m. – 11:00 p.m.

Upcoming Mathews Dinsdale Seminars

Copy the following URL to your browser to register for new sessions or review archived session videos:

<http://www.mathewsdinsdale.com> (see right side)

OHS in Canada: The Year in Review-Free Webinar

November 4, 2015 – 12:00 p.m. – 1:30 p.m.

Claims Management I

November 19, 2015

8:30 a.m. - Noon

Claims Management II

November 19, 2015

1:00 p.m. - 4:30 p.m.

CAD-7 for Employers

November 24, 2015

1:00 p.m. - 4:30 p.m.

Appeals Management

December 10, 2015

8:30 a.m. – 4:30 p.m.

If you have any questions, please call me at 519-671-5930. Thank you.

Paul Gunning
Executive Director



On October 27, 2015, the Government of Ontario tabled Bill 132: *An Act to amend various statutes with respect to sexual violence, sexual harassment, domestic violence and related matters*. This is wide ranging legislation that amends six different Ontario statutes. Important for you (and this article) is the fact that it further amends the workplace harassment provisions of the *Occupational Health and Safety Act*, putting further responsibilities on employers. While the changes are largely procedural, if this Act is passed, it will be important that you are aware of it, and that your policies meet its requirements.

While we can't outline all the amendments to the OHS Act in detail in this article, the highlights are the following:

- inclusion of workplace sexual harassment in the definition of workplace harassment explicitly and defining "workplace sexual harassment";
- ensuring that policies and procedures for workplace harassment include provisions for the reporting of harassment to a person other than an employee's supervisor or employer if that supervisor or employer is the alleged harasser;
- requiring policies to set out how information relating to complaints of harassment will not be disclosed "unless the disclosure is necessary for the purposes of investigating or taking corrective action";
- imposing, as a duty on an employer, a requirement to ensure that the worker who has allegedly experienced harassment and the alleged harasser will be informed in writing of the outcome of an investigation and any corrective action that has resulted; and
- granting the authority to an OHS Act inspector to require an employer to have a workplace harassment investigation conducted by an external party at the expense of the employer and to obtain a written report of that external investigator.

These proposed amendments do raise interesting questions. For example, in what context could an investigation be properly and fairly conducted without disclosing the nature and specifics of the allegations? The amendments appear to suggest such circumstances can exist. Further, how appropriate is it to inform an employee of corrective action taken against a management employee or a co-worker. While it is logical that an employer would want the complaining employee to know that steps have been taken, detailing the specifics of corrective action taken against an employee in writing is likely not something many employers have done.

While we are only at first reading of this Bill, there is no reason to believe it will not eventually pass. At that point, be prepared to amend your policies and meet its requirements. Should you fail to do so you leave yourself and your company at risk.