



## Executive Director's Report



### UPDATE

### ELECTRICAL HAZARDS BLITZ

From **November 1 to December 31, 2016**, the MOL will be conducting a province wide electrical blitz ensuring contractors comply with the construction regulations. Electricity has long been recognized as a serious workplace hazard. The construction regulations include provisions designed to protect workers exposed to dangers such as electric shock, electrocution, fires, and explosions. Many workers are unaware of the potential electrical hazards present in their work environment, which makes them more vulnerable to the danger of electrocution.



The focus of this blitz is to check that:

- workers are protected against the dangers of working on or around electrical connections
- workers hold the requisite trade qualification papers, as required.

#### Injury potential

Thermal burns: contact with electrical current – general

- Possible causes: poorly maintained power tools or electrical cords
- Things to look for: improperly grounded power tools, frayed extension cords, damaged tools

Muscle, nerve, tissue damage: equipment contact with electrical current-overhead power lines

- Possible cause: Signal person not present when operating delivery vehicles or heavy equipment around overhead electrical wires/power lines
- Things to look for: maintaining minimum clearance distances with overhead electrical wires/power lines and proper signing of the hazard

As our industry uses electrical cords, power chargers and equipment along with delivery vehicles at our projects, please remind your workers to check their equipment and situations daily.



### UPDATE

### 2017 Premium Rates Re-Announced

On October 28, 2016, the Workplace Safety and Insurance Board (WSIB) announced it had identified an error that occurred when the 2017 target premium rates for Schedule 1 were calculated and a higher Past Claims Cost was used than necessary, resulting in the published rates not being accurately determined.

The WSIB has taken swift action to correct this error by recalculating all premium rates for 2017. **The WSIB will honour its commitment to employers by charging each rate group the lower of the two rates, originally published or revised.** This will result in decreases for more rate groups, and no rate groups will see increases as a result of this adjustment.

## Executive Director's Report (continued)

The overall reduction to the average Schedule 1 rate is now 6.2 per cent, compared to the five per cent previously announced. As well, the average Schedule 1 rate is \$2.43 for every \$100 of insurable earnings, compared to \$2.46 previously announced. The updated calculations for the 2017 rate group premium rates have been independently verified by our Internal Audit team. In addition an analysis has been commissioned to identify improved controls to apply during the annual rate-setting process to ensure that there are no further miscalculations.

**For Rate Group 719, Inside Finishing, the 2017 rate will remain at \$6.65.**

Technical rate sessions for industry stakeholders are occurring between October 19 and November 14, 2016 in Toronto. These sessions will include recommendations on how to improve premium rates, as well as relevant information on improving health and safety outcomes in the workplace. Paul Gunning will be attending the session for Rate Group 719 on November 10.



### NEW IHSA Safety Talk

We all know the dangers associated with driving and smart phones and mobile devices, such as using the phone and texting. This has been termed distracted driving. But what about the distractions caused by mobile devices on worksites? This has even been put into the carpenters collective agreement where it states "No personal communication devices such as cell phones, Blackberries, iPods and/or similar devices shall be used on the job during work hours". However, we all still find them being used on our jobsites from time to time. Sometimes its better to sit down and explain IHSA has developed a new safety talk for supervisors to give to employees on the use of mobile devices on worksites. This safety talk below, courtesy of IHSA, reviews the hazards and discusses the importance of a mobile device policy at your firm.

## Mobile devices on worksites

### Explain dangers

We all know the dangers associated with distracted driving. But what about the distractions caused by mobile devices on worksites? Working on a busy jobsite or operating tools and heavy machinery requires your full concentration. Inattention or distraction can result in injury to yourself, injury to others, damage to property, or even death.

Operating a mobile device diverts your attention away from the task at hand or the hazards around you. If you're engaged in a phone conversation, your mind is on something other than your work or your safety. You may even find yourself removing your safety glasses, gloves, hearing protection, or hard hat in order to access your mobile device. Remember: It's not just you. Your co-workers can also become distracted, putting you in danger.

### Identify controls

To protect against the distractions caused by mobile devices on worksites, follow these safety guidelines.

- Never use your mobile device on a worksite unless authorized by your supervisor. That includes talking, texting, emailing, playing games, etc.#
- Never use your mobile device while operating any tools, machinery, equipment, or vehicles or while performing activities that require your full attention.#
- Don't use your mobile device while receiving work instructions or safety-related information.#
- Wait until your lunch or rest break to use your mobile device for personal calls or other activities. But only use it in specially designated safe work areas, such as a site trailer or break room.
- Never operate a mobile device near flammable fumes or liquid, or when you're in a flammable environment.
- Turn off your mobile device completely when working. If your ringer goes off, it may startle you or someone in the area.
- Let your calls go straight to voicemail when you're working. You can retrieve them at a more convenient time.
- To reduce the temptation to use mobile devices on the worksite, ask workers to keep them in their vehicles or store them in a lockbox at the site trailer.
- If you have an urgent matter that requires keeping in contact with family members, bring it to the attention of your supervisor and work out a plan so that the communication can be done in a safe manner.
- If you need to access important work-related information on your mobile device, stop any work activities, inform your supervisor, and move to a safe work area.

*Executive Director's Report (continued)*

- For supervisors, communication is part of the job. However, they should limit their mobile device use to the site trailer, site office, or other designated safe work areas away from general work activities. They should not make or take calls while directing activities on the site.

**Demonstrate**

If your company has a health and safety policy concerning the use of mobile devices on worksites, take the time to review it with your workers. Point out any designated safe work areas where they are allowed to use their mobile devices. Be clear on who the policy applies to (subcontractors, temporary workers, etc.) and what the consequences will be if they violate the policy.

If your company does not have a policy, have a discussion about the importance of one. You can download a sample policy on mobile devices from the **Policy and Program templates** section on [ihsa.ca](http://ihsa.ca) under Company Health and Safety Rules.

**UPCOMING Mathews Dinsdale Seminars/Webinars**

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 2016 – Complimentary Webinar**

Wed November 30, 2016 12:00 pm – 1:30 pm

Join Mathews Dinsdale for their complementary annual national update on the largest risk issues, most significant developments and management strategies, featuring experienced and specialized OHS practitioners (including two former prosecutors) from Ontario and Alberta.

This session will include:

- Legalization of Marijuana - What It Means for Workplace Safety - Recent Cases Highlighting the Issue for Employers
- New WorkSafeBC Policy on Administrative Penalties - Greater Discretion and Potentially Higher Penalties
- Corporate Probation & Creative Sentences in Alberta
- Federal Employer Obligation to Inspect Workplaces Over Which They Have No Control?
- Sentencing for Criminal Negligence
- How to Protect Privilege in a Workplace Accident Investigation - Even Where Investigation Required by Statute
- Freedom of Religion in Quebec Does Not Trump Worker Safety
- Sexual Annoyance and Threatening Behaviour - When It Can Result in Termination for Cause for Safety Reasons
- Ontario Bill 132 Changes and Code of Practice to Assist Employers in Ontario with OHSA Harassment Obligations
- Work Refusal on Basis of Subjective Assessment of Safety Doesn't Stand in Maritimes
- Other Significant OHS Amendments, Trends, Changes and Cases

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

Paul Gunning  
Executive Director

## The Mathews Dinsdale Minute



On September 27, 2016, the Labour Board issued its decision in the “non-construction employer” applications filed by the Greater Essex County District School Board (the “School Board”), after 3.5 years of litigation. The Labour Board decided that the School Board met the definition of a non-construction employer and terminated the ICI bargaining rights of the United Association of Plumbers and Pipefitters, the Painters, the Labourers, the Electricians and the Bricklayers. In doing so, the School Board was released from its obligations to adhere to the terms of those trades ICI Collective Agreements.

For those of you who don’t know, the non-construction employer provisions of the *Act* were implemented under the Mike Harris provincial government. Their effect was to terminate any ICI construction bargaining rights held for an employer if that Employer could establish that it met the definition of a non-construction employer. That definition is as follows:

*“non-construction employer” means an employer who does no work in the construction industry for which the employer expects compensation from an unrelated person.*

There have been a number of applications under this section, but few have been successful. This included prior applications by the School Board, the most recent of which was dismissed in February of 2009.

It is important to note that this definition doesn’t require a party seeking a non-construction employer declaration to establish that they don’t do (or subcontract out) construction activities, but is focussed on whether they do it to secure compensation from someone else, and it was this second portion of the definition upon which the case focussed. The Board noted that the focus of the case was whether any of the following activities prevented the School Board from meeting the non-construction employer definition:

- a) construction work in schools occupied by tenants (mostly day care centres) where the Board collects a “nominal rent”;
- b) construction work in premises the School Board leases and uses to deliver programs funded by the provincial government (through the Ministry of Advanced Education and Skills Development); and
- c) construction work in kitchens and cafeterias that the School Board doesn’t provide food services in, but contracts out the food services to food services companies.

Ultimately, the Labour Board concluded that it was not persuaded that either (i) there is any compensation paid to the School Board; or (ii) for what may have been paid to the School Board (by the food services providers, nominal rents or the Ministry funding), there is any real nexus between that compensation and the construction performed. In essence, the Board found that simply because construction work that allowed spaces to be usable that would result in these rents, payments or funding to be received by the School Board occurred it didn’t mean that that work was done for compensation from an unrelated person in this context.

When the non-construction employer provisions were first enacted, there were a number of Applications filed, the majority of which were not successful. The Essex School Board, through a number of attempts to secure a declaration, illustrated a very high level of dedication to doing so. At the same time, the various construction trades, not surprisingly, showed a willingness to fight any such application as hard as is possible. It will be interesting to see whether this decision leads to another rush of applications from similarly situated entities.