



Executive Director's Report

New Ontario Government

Cabinet Ministers Named



On Friday, June 29, 2018, Doug Ford was sworn in as Ontario's 26th Premier. Premier Ford's cabinet was also sworn in.

The new ministers are as follows:

- Peter Bethlenfalvy - President of the Treasury Board
- Raymond Cho - Minister for Seniors & Accessibility
- Steve Clark - Minister of Municipal Affairs & Housing
- Christine Elliott - Minister of Health and Long-Term Care and Deputy Premier
- Victor Fedeli - Minister of Finance and Chair of Cabinet
- Doug Ford - Premier and Minister of Intergovernmental Affairs
- Merrilee Fullerton - Minister of Training, Colleges and Universities
- Ernie Hardeman - Minister of Agriculture, Food & Rural Affairs
- Sylvia Jones - Minister of Tourism, Culture & Sport
- Lisa MacLeod - Minister of Children, Community & Social Services and Minister Responsible for Women's Issues
- Monte McNaughton - Minister of Infrastructure
- Caroline Mulroney - Attorney General and Minister Responsible for Francophone Affairs
- Rod Phillips - Minister of the Environment, Conservation & Parks
- Greg Rickford - Minister of Energy, Northern Development & Mines and Minister of Indigenous Affairs
- Laurie Scott - Minister of Labour
- Todd Smith - Minister of Government & Consumer Services, and Government House Leader
- Lisa Thompson - Minister of Education
- Michael Tibollo - Minister of Community Safety & Correctional Services
- Jim Wilson - Minister of Economic Development, Job Creation & Trade
- John Yakabuski - Minister of Transportation
- Jeff Yurek - Minister of Natural Resources & Forestry

New Ontario Government

Cabinet Ministers Named (Continued)



Premier Ford has recalled the legislature for a rare summer sitting the week of July 11th. A new speaker of the house will be elected then. On July 12th there will be the throne speech. The regular sitting of all MPP's in the house will start the following Monday July 16th. It is expected that the house will sit 2 or 3 weeks. Expect the new government to get some of their promises started during this rare sitting. This may push back the fall sitting of the government.

During this time however, among several things, we expect the government to go forward with one of their promises to amend the provisions of the Bill 148 amendments to the Employment Standards Act that call for an increase of the minimum wage from \$14 per hour to \$15 per hour on January 1, 2019. To add to this, COCA has been in contact with the new Minister of Labour, Laurie Scott, regarding the concern of the construction industry with certain provisions of Bill 148 and request it be exempt from these provisions, like the automotive industry has been granted.

COCA's very highest priorities for many years have been the modernization of the Construction Lien Act and the pursuit of prompt payment legislation. COCA and PPO received both in the last Ontario Parliament in the form of Bill 142 which created the Construction Act. Going forward, COCA will remind the new government that Bill 142 passed in the Ontario Legislature with the unanimous support of all parties and that it must be implemented as scheduled and with supporting policies that align with Bill 142's original intent.

For many years, stakeholders have been working with the WSIB on the development and implementation of an initiative that goes under the banner of Rate Framework Modernization. This initiative includes a new classification system, a new experience rating program and a new rate setting process. COCA and AAO would like to see this initiative to proceed as scheduled with implementation on January 1, 2020. COCA is in the process of setting up meetings with many of the new Ministers and their Opposition and Liberal critics. COCA (and AAO) have already established long term relationships with many of these new ministers during the past four years and we look forward to working with the new government.

WSIB

Rate Framework Modernization



In August of 2017, the WSIB initiated consultations with stakeholders with regard to draft policies to support the Rate Framework Modernization initiative which is scheduled to be implemented on January 1, 2020. The policies addressed:

- Coverage Status
- The Classification Structure
- Single and Multiple Premium Rates
- Associated Employers
- Premium Rate Setting
- Employer Premium

Employer representatives including COCA were highly critical of the vague and open-endedness of the first versions of the policies. The most controversial policies dealt with multiple rating and associated employers. Many meetings were convened to discuss and make improvements to the draft policies with several redrafts. The WSIB listened to employers and improvements were made including the following:

- An expanded list of ancillary activities
- The rules for multiple premium rates based on meeting one of two significant business tests
- An expanded associated employer test which will treat many companies as associated that are not currently so defined
- Expanding the premium adjustment period for most retroactive premium adjustments from the current year plus 2 years (up to 3 years retro) to current year plus 3 years (up to 4 years retro)

These policies have been finalized and now appear on the WSIB's website. COCA and AAO are reviewing the policies in detail.

Working At Heights (WAH)

Fall Protection Training



Some believe that to comply with O. Reg. 297/13, all they have to do is check that an employee has received approved working at heights (WAH) training and for the employee to show proof of this training (training card). Actually, fall protection training has two components: WAH training AND training on the fall protection system to be used. This applies to workers who may be exposed to a fall hazard on a project and who are using a personal fall protection system. This is what MOL inspectors are looking for.

The first component, is straight forward and in order to be valid, must be by an approved trainer successfully completed within the last three years, and thereafter updated through an approved refresher training as outlined in the standard for this training. Training on the fall protection system to be used is a little different. The requirements for fall protection training, along with oral and written instructions, are outlined in section 26.2 of O. Reg. 213/91, which states:

- 26.2 (1) An employer shall ensure that a worker who may use a fall protection system is adequately trained in its use and given adequate oral and written instructions by a competent person. O. Reg. 145/00, s. 13.
- (1.1) In addition to the requirements of subsection (1), an employer shall ensure that a worker who may use a fall protection system meets the working at heights training requirements of Ontario Regulation 297/13 (Occupational Health and Safety Awareness and Training). O. Reg. 252/14, s. 1.
- (2) The employer shall ensure that the person who provides the training and instruction referred to in subsection (1) prepares a written training and instruction record for each worker and signs the record. O. Reg. 145/00, s. 13.
- (3) The training and instruction record shall include the worker's name and the dates on which training and instruction took place. O. Reg. 145/00, s. 13.
- (4) (4) The employer shall make the training and instruction record for each worker available to an inspector on request. O. Reg. 145/00, s. 13.

Working At Heights (WAH)

Fall Protection Training (Continued)



Feedback from the MOL indicate some in the industry have been referring to the above training as “site-specific”, “job specific” or “system specific” while others have assumed all that was required by workers was WAH training (as per subsection 26.2 (1.1)). Others have adopted the practice of conducting a pre-job safety talk and maintained attendance records, considering this as “adequate training” under subsection 26.2 (1) while ensuring their workers also had valid WAH training. The question then arises whether the worker received adequate training for the system they are currently using as per 26.2(1). Although it is the employer’s duty to determine what is adequate for each situation, the oral and written instructions by a competent person should include at least the following:

- How to inspect the components for defects
- How to set up the fall protection system correctly, hence identifying the fall protection system on which the worker has been trained
- How to use the fall protection system including all components in accordance with manufacturers’ operating manuals
- How to identify and respect its limitations, i.e. if it is a travel restraint, where it may be used and where it may not be used
- How to determine the minimum clearance required in case it is a fall arrest, i.e. not to bottom out or hit objects below, and
- How to participate in a rescue in case a fall arrest system is deployed and how to summons assistance in case the worker’s system is deployed

The fall protection system record of training must include:

- The signature of the competent person who delivered it,
- The worker’s name, and
- The date(s) at which the training and instruction took place. (26.2(2) and 26.2(3) of the O. Reg. 213/91).

Please note – this is not the same as the proof of training for WAH. WAH training is only a part.

In addition to the elements that need to be included in the written record of training and written instructions, the MOL inspector, in determining the adequacy of the training during an inspection may:

- Visually inspect the equipment in use, how it is being donned by the worker,
- Ask the worker questions about the limitation(s) of the equipment used, the manufacturers’ instructions of its components and their compatibility,
- Verify labels and compliance with the applicable CSA standards, and
- Assess whether the worker using the fall protection system in place is adhering to the written instructions and training.

Mathews Minute



Cannabis Act

The *Cannabis Act* has now received approval by the Senate. This is the legislation that will legalize recreational marijuana use in Canada effective October 17, 2018. Is your workplace ready?

Earlier this year, the Mathews Dinsdale Minute commented on the state of the law for random drug and alcohol testing. Also, as almost all workplaces are aware, there has been a continuing struggle with understanding the implications of prescription marijuana use in the workplace. Add to this the obvious question of what does the legalization of recreational marijuana now mean for workplaces? That remains to be seen.

One thing that is clear is that all the contours of the legalization process continue to play out. For example, it appears that various prohibitions related to marijuana use and sale will remain in place, but be issued by regulation by the government. Further, each province will have responsibility for passing legislation and regulations pertaining to the method and sale of cannabis along with its use. It appears likely that Ontario will implement some elements of a system similar to the licencing and sale of alcohol in the province.

More important is how you should deal with it in the workplace. The logical approach is that it should be no different from alcohol, meaning that while it is not illegal to own and use, employers should maintain their right to prohibit it in the workplace for the obvious safety concerns it raises. This seems simple, but many of the events tied to medical marijuana would suggest that there could well be employees who presume that the legality of possessing the marijuana will automatically mean they can bring it into the workplace. Employers should make clear to employees, in advance, that this will not be the case.

Further, now is probably a good time for a review of any drug and alcohol policies you have in the workplace or the implementation of a policy if you don't have one. Just one thing to look for is this: traditional policy language referenced the use of alcohol and illicit or illegal drugs. Does this need to be reworded to make clear that while a legal drug, marijuana is still not permitted in the workplace? Are there other gaps in policies and procedures created by marijuana legalization?

The times are certainly changing and, when the implications of potential impairment in the workplace are considered, it is certainly in your best interests to be ahead of the curve.

JULY 2018



UPCOMING - Mathews Dinsdale Seminars/Webinars

Copy the following URL to your browser to register for new sessions or to review archived session:
<http://www.mathewsdinsdale.com> (see right side)

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

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