



November 23, 2007

LABOUR AND EMPLOYMENT COMMUNIQUÉ

A publication of Miller
Thomson LLP's Labour &
Employment Practice Group

YOUNG OR NEW WORKER WCB REGULATIONS (BRITISH COLUMBIA)

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The Workers' Compensation Board of British Columbia (which now likes to style itself as "WorkSafe BC") has recently passed new Regulations under the Occupational Health & Safety Division of the *Workers Compensation Act*. These deal with training and orienting workers who are young or new to the workplace.

It has been the experience of the Workers' Compensation Board in British Columbia that when the economy expands, the accident rate goes up. This is due to the increased availability of jobs for young workers with little or no prior exposure to the culture of a workplace. The experience of the BC Workers' Compensation Board is undoubtedly echoed in other provinces as well.

The new Regulations capture not only workers who are new to the workplace, but also those who are returning to the workplace where the hazards have changed during their absence, where there is a change in the hazards of a workplace, or where workers are relocated to a new workplace with different hazards. A "young" worker is defined as any worker under the age of 25.

Note:

This *Communiqué* is provided as an information service and is a summary of current legal issues of concern to the Labour & Employment Industry.

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Effective July 26, 2007, employers in British Columbia must provide young or new workers with both health and safety orientation, and training specific to the workplace. Topics included in the orientation and training include contact information for the responsible supervisor, and training on the rights and responsibilities under the *Workers Compensation Act* and Regulations. Other required topics include the responsibility to report unsafe conditions, the right to refuse to perform unsafe work; training on workplace health and safety rules, and on the hazards to which the workers may be exposed, risks and responsibilities of working alone or in isolation; use of protective equipment; dealing with violence in the workplace; location of first aid facilities; and dealing with emergency procedures. The employer must also provide instruction and demonstration of the job-specific work tasks or work processes to the new workers. As well, if the employer is required to have a health and safety program, orientation and training in the program must be provided. Finally, the employer is responsible to provide the young or new workers with additional orientation and training if workplace observation reveals the workers are unable to perform work tasks or processes safely or if such additional orientation and training is requested. Employers must also keep documentation of all of the training provided.

The Board provided expanded guidelines on each of the requirements for which orientation and training are required. For example, with respect to violence in the workplace, orientation and training must be provided on the policies and procedures to be followed in the event of violence in the workplace. A workplace specific meaning for the term "violence" is to be provided, and it must include any threatening statement or behaviour, as well as the circumstances in the workplace where a risk of violence may be present. Training in the procedures to follow in order to eliminate or minimize any such risk situations when, for example handling money or opening and closing the business, must be provided. There must as well be training to eliminate or minimize the risk of injury to the worker in the event of an incident.

The Regulation on orientation and training for violence in the workplace has its roots in some violent incidents which have occurred in the retail service industry. In one case, an employee working late in a gas station was dragged to his death trying to prevent a customer from leaving without paying for gasoline. The Board has taken steps to try and deal with such situations.

The Board's Young or New Worker Regulation is intended to set a minimum standard, and employers are encouraged to exceed these requirements. If there is a topic that is not applicable to a given workplace, it need not be included in the program. The training affects workers new to the workplace after July 26, 2007, and also affects any workers who have been previously employed by an employer, and who are moved to a new work process.

The Board has developed a basic four step guide to develop a safety training and orientation program. A summary is set out below:

Step 1: Evaluate the situation

First decide what areas the worker needs training in. Compare the worker's job description to the Worker Orientation Checklist. If there is no job description, this would be a good time to write one. If this is the first time the worker has been oriented, a thorough training session should be planned. If the worker is being re-oriented, a complete orientation will likely not be required—the focus should instead be on the topics that relate to the new situation or new hazards.

It's a good idea to prepare a handout sheet for workers with contact information for supervisors and first aid attendants, as well as where to find more information about worker rights and responsibilities in the Regulation.

Step 2: Train the worker

Sit down with the worker and go over the checklist. Walk around to show the worker emergency exits and first aid facilities, and to demonstrate specific work procedures. (One can do this personally or assign someone else to do it.) A typical orientation should take anywhere from one to four hours. In a higher-risk workplace such as a sawmill, the orientation may take a full day. An effective orientation should make workers aware of potential hazards and let them know who to talk to if they have questions about health and safety in the future.

Step 3: Test the worker

Make sure the worker understands the training. Test worker knowledge by asking questions about specific procedures (for example, how to clean the grill and dispose of hot oil) or general requirements (for example, when and where they need to use personal protective equipment). Follow up later — ask workers questions within a few days and periodically over the next month or two.

Step 4: Keep records of the orientation

Be sure to document all training. An orientation checklist will help ensure coverage of all the key topics when training a new worker. Give copies of the checklist and other relevant materials to the worker and keep copies for your own records. The Board recognizes that some programs will be available to workers as part of the general safety measures in the workplace.

Records keeping in health and safety matters is always important to measure performance in respect of worker training. Tool box talks as well as formal orientation and training should be documented. An employer's ability to demonstrate due diligence in safety orientation and training will often depend entirely on the records that it keeps.

WorkSafe BC has developed its own initiatives to reach young workers while still in school. For example, it has developed the “Rights and Responsibilities Program”, a self-paced, interactive, curriculum-based program which helps new or young workers to understand their health and safety rights and responsibilities in the workplace. The program builds on work done in Grade 10 curricula, and directly supports prescribed and elective curricula at the Grade 11-12 level. It's designed for three primary audiences:

- New workers, including student workers;
- Teachers facilitating work experience programs for students; and
- Employers and supervisors.

For workers who are starting out in the workforce, WorkSafe BC has developed material to assist in learning about the hazards of a worksite. Created with the help from members of the Young Worker Advisory Group, this simple, two page document provides young or new workers with useful tips on how to learn about and address issues about safety in the workplace. There are also publications and videos available to assist supervisors and employers meet their responsibilities to train new or young workers.

Whether or not there are specific regulations that deal with and address the circumstances faced by young or new workers, responsible employers should take an audit of their businesses, and the risks which those businesses entail. Based on these audits, steps should be taken to minimize risk. This is especially apposite given the increased responsibilities that all Canadian employers face from changes to the *Criminal Code* of Canada under Bill C-45. These have been discussed in earlier Communiqués (September 30, 2004 and December 30, 2003 Ontario Communiqués).

ABOUT THE AUTHOR :

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