



Employment Update

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IN THIS ISSUE:

Occupational Health and Safety Update: Summer Safety Blitzez, Mandatory Training for Supervisors Coming
Melanie I. Francis

Amendments to Pension Benefits Act in Effect on July 1, 2012
Maria Kotsopoulos

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OCCUPATIONAL HEALTH AND SAFETY UPDATE: SUMMER SAFETY BLITZES, NEW MANDATORY TRAINING FOR SUPERVISORS, NEW POSTER REQUIREMENTS COMING

Melanie I. Francis

Summer Safety Blitzez

On May 1, 2012, the Ministry of Labour (MOL) launched its summer safety blitz, targeting the health care, construction and industrial sectors employing new and young workers. The focus of this blitz is to prevent injury to new or young workers who lack experience in the field and who may have limited knowledge of their rights and responsibilities with respect to workplace safety. The blitz aims to ensure these workers are properly trained and supervised and that they have access to the required protective devices and safety equipment.

The New and Young Worker Blitz concludes in August. In the interim, the MOL will launch additional safety blitzez focusing on specific risks to all workers in the construction and mining sectors. One such blitz, the Struck by Objects Blitz, focusing on hazards associated with traffic control during roadwork, was launched on June 1, 2012, just as summer

construction on our roadways began ramping up. In July and August, MOL inspectors will target hoisting hazards in their Tower and Mobile Crane Blitz. July will also see the MOL focus on hazards associated with haulage in its Pits and Quarries Blitz.

The MOL recently released the results of its Musculoskeletal Blitz, which took place in February, 2012. Over the course of just one month MOL inspectors visited over 1,700 workplaces across the construction, healthcare, industrial and mining sectors. Close to 5,000 orders were issued, including over 300 stop work orders. These results demonstrate the potential scope of the upcoming blitzez. The results further reinforce the need for employers to be vigilant about their health and safety programs throughout the summer, not only to protect workers, but also to prevent costly slow-downs resulting from MOL orders.

Draft Training Manual for Supervisors Released by the Ministry of Labour

Early last year we told you about recommendations released by the Expert Advisory Panel, appointed by the Ministry of Labour (MOL) to review Ontario's occupational health and safety system. One

EMPLOYMENT UPDATE

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Melanie articulated with Blaney McMurtry in 2009-2010 and returned to the firm as an associate after her call to the Bar in 2010.

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focus of those recommendations is an increased importance placed on training and, in particular, training for those in supervisory positions.

The goal is to ensure that supervisors are aware and have a full understanding of their role and responsibilities when it comes to health and safety in the workplace. A supervisor workbook and employer guide have been developed. These materials have now been released by the MOL, with an invitation to organizations, businesses and workers to provide feedback on these drafts.

The consultation drafts can be read here: http://blny.ca/EmployerGuide_Supervisor, http://blny.ca/Workbook_Supervisor.

Employers are not yet required to provide the awareness program to their workers. A regulation will be necessary to make the provision of this program mandatory. We expect, however, that such a regulation will be forthcoming. While it is likely that not all employers will be required to deliver the program, employers should familiarize themselves with this program and provide input regarding the content. Access the following link to provide feedback on the draft employer guide and supervisor workbook: http://blny.ca/WorkbookEmployerGuide_Supervisor_Review.

The employer guide recaps best practices in terms of implementing the awareness program. The real focus is on the supervisor workbook,

which deals with a range of topics rolled into “5 steps” or guidelines. These steps encourage supervisors to:

1. Make a Difference - by gaining awareness of their role within the internal responsibility system of the occupational health and safety scheme;
2. Lead the Way - by identifying and supporting workers' rights;
3. Use a Supervisor's Toolkit - by accessing the appropriate resources to address health and safety issues and being proactive in reorganizing and responding to hazards;
4. Understand They Are Not Alone - by using the sources of information and resources available to them (i.e. employer policies, joint health and safety committees, health and safety representatives, MOL guidance); and
5. Be a Good Role Model - by setting a good example and influencing others to follow.

In reality, each of the “steps” encompasses many smaller, individual steps that must be taken by supervisors daily. A supervisor's role is incredibly complex; employers must recognize this and be ready to ensure supervisors hired are provided with the necessary training and support regardless of when the MOL awareness program becomes fully mandated. Doing so can go a long way to preventing accidents in the workplace, and will certainly be viewed favourably by a court should an accident occur and charges be laid.

EMPLOYMENT UPDATE

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Maria advocates on behalf of employers, not for profit organizations, trade unions, and employees, and has been involved in matters before the Superior Court of Justice, the Federal Court, the Labour Board, the Human Rights Tribunal, the Workplace Safety and Insurance Appeals Tribunal, and other tribunals.

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MOL Inspectors to Enforce Poster Requirement as of October 1, 2012

Beginning October 1, 2012, MOL inspectors will enforce a requirement that employers post a new health and safety awareness poster introduced by the MOL. The poster, entitled “Health & Safety at Work - Prevention Starts Here” can be downloaded at: http://blny.ca/HS_AwarenessPoster.

The new poster is another response to the recommendations of the Expert Advisory Panel. The Panel identified as a priority the creation of a health and safety poster that explains the rights and responsibilities of workplace parties, and that provides general health and safety information and MOL contact information.

Employers are reminded that section 25(2)(i) of the Occupational Health and Safety Act requires them to “post, in the workplace, a copy of this Act and any explanatory material prepared by the Ministry, both in English and the majority language of the workplace, outlining the rights, responsibilities and duties of workers.” The new poster has been identified by the MOL as “explanatory material” and is therefore required to be posted; it is available in English and French, as well as 15 other languages.

The new posting requirement provides a great opportunity for employers to review all materials that are currently posted in the workplace to ensure they are up to date and that they are meeting the posting requirements set out in the Act. ■

AMENDMENTS TO PENSION BENEFITS ACT IN EFFECT ON JULY 1, 2012

Maria Kotsopoulos

Certain amendments to the *Pension Benefits Act* (the “PBA”) extending the application of “grow-in benefits” in defined benefit plans to eligible terminated employees will come into effect on July 1, 2012.

Currently, the PBA permits eligible employees to become entitled to certain enhanced early retirement benefits upon the partial or full wind up of their employer’s defined pension plan. In order to be eligible, an employee’s age plus of years of service must total at least 55.

The amendment to the PBA will, as of July 1, 2012, extend access to these grow-in rights to those eligible employees whose employment has been terminated by their employer if their age plus years of service total at least 55. As a result of this extension, certain employees will be able to access enhanced early retirement benefits despite the termination of their employment. However, not all terminated employees will be eligible. A draft Regulation prescribes when grow-in rights will be available.

An employee who receives written notice of termination may still be entitled to exercise grow-in rights if he or she resigns not more than 60 days before the specified termination date.

Employees whose employment is terminated as a result of wilful misconduct, disobedience or wilful neglect of duty will not be entitled to

EMPLOYMENT UPDATE

grow-in rights. Further, employees hired on the basis that their employment will end on the expiry of a definite term or contract or on the completion of a specific task are also excluded. “Construction employees” as prescribed under the *Employment Standards Act, 2000* (“ESA”) are similarly excluded. Finally, employees on temporary lay-off will not be eligible.

As a result of this amendment, the number of employees who may claim enhanced pension benefits on and after July 1, 2012 will significantly increase, so too the cost to employers associated with this extension of enhanced pension benefits to departing employees. Employers will have to ensure that adequate funding is in place for severance and pension liabilities to eligible departing employees. ■

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