



Return to Work Regulation for Construction

The Ontario Government has proclaimed a new Construction Return to Work (RTW) Regulation to become effective September 1, 2008. The regulation will require that all contractors regardless of size will have the responsibility to provide available and suitable re-employment to their injured worker for a period of up to two years after the date of the injury and for a duration of one year after the worker is medically able to perform the essential duties of the pre-injury employment.

Bill 99 included a responsibility to develop a construction specific regulation that would apply to all contractors regardless of size. COCA has been involved in on again off again discussion with the construction unions, various

employer groups and the WSIB. An agreement was forged in December 2006 that is the basis for the regulation that will be implemented in September.

The WSIB is committed to developing policies to support the regulation. They will consult with industry officials by June to fill in the gaps for the regulation. This is important as some important features agreed to are not in the regulation and therefore need to be included in the policies.

They will also develop and deliver a plan to communicate the new requirements to the construction industry. This will not be easy. Employers with less than 20 workers have not had RTW requirements applied until now. Small employers often have fewer op-

portunities to re-employ workers and there are over 50,000 small construction employers who need to be informed of their new responsibilities and prepare to respond should they have a Lost Time Injury.

COCA will work with the WSIB to develop policies that best reflect the approach we championed for effective RTW. We will also work with the WSIB to summarize the requirements and the application of the regulation.

COCA recognizes that this is a complex and difficult requirement for many contractors and we will work to support policies and information to help the construction industry implement it.

Ministry of Labour Starts Implementing Regulatory Modernization Act (RMA)

The Ministry of Labour's, Inspections, Investigations and Enforcement (II&E) Secretariat, began implementation of the Regulatory Modernization, 2007 January 17th of this year. The Act will enable the government's 13 regulating, or line ministries, and other regulatory bodies to better protect the public interest.

Providing a range of new tools the RMA intends to: facilitate the more effective use and sharing of information, foster improved cooperation and compliance efforts across ministries; better assist regulated "communities," ensure their regulatory compliance; and, reduce the administrative burden of providing information to multiple ministries.

The five principal features of the legislation enabling these tools include:

1. the strengthening of capabilities for collection, use and disclosure of compliance information among ministries and other regulators that administer and/or enforce designated provincial legislation;
2. granting the authority for "heads-ups" among ministries and other regulators that administer and/or enforce provincial legislation;
3. providing ministers with the authority to publish compliance and conviction information about organizations,

and conviction information about individuals;

4. enabling ministers to authorize special teams to conduct compliance-related activities under multiple statutes for special compliance projects; and,
5. requiring the courts to consider a defendant's previous convictions under any Act that, in the opinion of a prosecutor, are relevant in determining the penalty for a conviction.

The business community had raised a number of issues concerning these features and what sort of repercussions would arise from their application. The government has given assurance that the purpose and intent of the RMA is chiefly to facilitate better communication and information sharing among its ministries. The RMA is not about creating a monolithic database to police the regulatory compliance of the business community, but rather assisting business with its regulatory responsibilities.

Specifically addressing information sharing, the RMA contains a specific framework where only information collected under designated legislation can be exchanged between authorized personnel and will require written authorization. Personal information about indi-

viduals will be limited to business owners, officers and directors of organizations.

Ministry inspectors will be authorized to provide "heads-up" notifications to their counterparts in other ministries when a suspected problem is observed. The government will closely monitor this provision over the course of the first year to gauge the results.

The publishing of compliance and conviction information will be conducted only with the RMA's publication guidelines which stipulate that such information be verified and carefully considered before publishing in order to avoid frivolous and vexatious releases.

Ministerial creation of special teams acting across multiple jurisdictions will not create "super inspectors." The RMA's multiple authorization guidelines provide for the creation of special teams by a minister only under specific instances. All members of a special team and the range of their specific duties must be clearly identified in writing and the special team may only function within a timeframe specifically stipulated by the minister. Special teams are only to be used when there exists a clear regulatory compliance need with a clearly identified measurable outcome.

COCA Members

- Acoustical Association of Ontario
- Architectural Glass & Metal Contractors of Ontario
- Association of Millwrighting Contractors of Ontario
- Barrie Construction Association
- Canadian Farm Builders Associations—Ontario Division
- Canadian Fence Industry Association
- Concrete Floor Contractors Association
- Construction Association of Thunder Bay
- Electrical Contractors Association of Ontario
- Grand Valley Construction Association
- Hamilton-Halton Construction Association
- Heavy Construction Association of Toronto
- Interior Systems Contractors Association of Ontario
- Kingston Construction Association
- London & District Construction Association
- Mechanical Contractors Association of Ontario
- Ontario Demolition Contractors Association
- Ontario Electrical League
- Ontario General Contractors Association
- Ontario Industrial Roofing Contractors Association
- Ontario Painting Contractors Association
- Ontario Refrigeration & Air Conditioning Contractors
- Ontario Sewer & Watermain Construction Association
- Ottawa Construction Association
- Pipe Line Contractors Association of Canada
- Reinforcing Steel Institute of Ontario
- Resilient Flooring Contractors Association of Ontario
- Sarnia Construction Association
- Sault Ste. Marie Construction Association
- Sealant & Waterproofing Contractors Association
- Scaffold Industry Association of Ontario
- Sudbury Construction Association
- Terrazzo, Tile & Marble Guild of Ontario
- Toronto & Area Road Builders Association
- Toronto Construction Association
- Utility Contractors Association of Ontario
- Windsor Construction Association

WSIB proposes to hold the line on Assessment Rates

WSIB Chairman Steve Mahoney has put forward his plan to maintain the average assessment rate at \$2.26 and retire the Unfunded Liability by 2014. Mahoney believes there is room to fund \$750 million of 3 pension increases that were in Bill 187 and still maintain the average rate. This balancing act has become much more difficult since the WSIB recognized that the result is that pensions will likely be fully indexed which will add approximately \$2.3 billion to the Unfunded Liability.

In a meeting with employer representatives Mahoney projected that the Unfunded Liability (UFL) is to be more than \$8 billion (up

from \$6 billion), and that it is likely to grow before it is reduced to 0 by the end of 2014.

Mahoney's key assumptions feature an aggressive reduction of Lost Time Injury levels of 7% a year or 35% over five years. This must include a break through in prevention that would more effectively convince employers and workers to work safer.

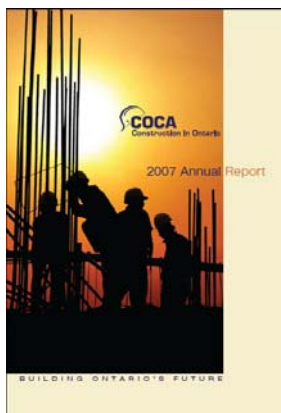
Perhaps an even bigger target is the one set to reverse the growth of claims persistency. Persistency is a measure that reflects average time on claim and costs. For construction it is reflected in the average cost of a

construction LTI this year is projected to be approximately \$68,000 and it is growing at a rate of over 10% per year. The WSIB proposes to stop the growth of claims persistency in 2008, and reduce it each year from 2009 to 2012, a very difficult challenge. COCA and other employer groups will be meeting with the WSIB on March 19th to receive details of how they plan to achieve this.

The discussions will lead to an adjustment of the WSIB's Funding Framework policy. It will be used to set 2009, 2010 and 2011 assessment rates. Draft 2009 Construction Rates should be available by late June 2008.

Annual Report Now Online

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Construction Day set for Wednesday May 28th!!

Mark and save this day on your calendar to participate in COCA's inaugural *Construction Day* lobby day at Queen's Park. More information is to follow. If you have any questions or are interested in participating, contact David Zurawel at 416-968-7200 ext. 223 or dzurawel@coca.on.ca.

McGuinty Government to Boost Minimum Wage to \$8.75

Labour Minister Brad Duguid has announced the McGuinty government will be increasing the provincial minimum wage to \$8.75 from \$8.00 the end of this month; the second such increase in as many years.

The increase is a decisive move demonstrating the Premier's commitment to his government's agenda to tackle poverty in Ontario, apparently making it a central leadership plank for his new mandate. It can also be argued that the government's commitment to a skilled, well-educated and productive workforce cannot

be realized unless the wages exist to support it. These factors, along with the provincial economy showing increasing signs of uncertainty coupled with higher costs for essential items, such as groceries and fuel are the likely motivators for the increase.

Opposition party criticism is sure to follow quickly in the wake of the announcement. The NDP can be expected to characterize the move as less than meaningful as the increase does not satisfy its well established call for a "living wage" rate of \$10 an hour. Likewise, the Conservatives are likely to

point to the added pressure the increase will place on employers, and by extension the economy, already facing serious challenges in the form of a high dollar, the loss of manufacturing jobs and dimming economic prospects.

Ironically, in its efforts to do good by those earning minimum wage, the government could actually end up hurting those they are trying to help as some employers will most certainly have to cut staff in order to pay for the increased costs of the wage hike – only time will tell.