



Executive Director's Report

2017 is turning out to be a year with several developing issues that will affect construction. Although the review of Prompt Payment federally and provincially (Construction Lien Act Review) has grabbed the attention of many lately, other important issues that are being discussed and will affect the workplace that cannot be overlooked include:

Marijuana in the Workplace (Federally and provincially)

MOL Accreditation (Recognition of Employer HS Programs)

MOL's Construction Health and Safety Action Plan (CHSAP)

New WSIB Rate Framework (Coming as early as 2019 now)

Ontario College of Trades (Ongoing implementation of Tony Dean's Recommendations)

As more information becomes available, we will keep you up to date. AAO, through COCA is participating in many of these issues.

We would like to bring to your attention again that Mathews Dinsdale is having a webinar "**Marijuana & Workplace Safety – What's an Employer to Do?**" on Tuesday April 11, 2017 from noon till 1:30. AAO strongly recommends that you register for this webinar and that if you cannot, please have someone else in your organization do so. Legislation to legalize is coming and this will be a huge issue for construction. While implementation will lag behind legalization, it is important to start pro-actively addressing this issue now. These are some of the questions that will be addressed in this session:

- o **Medical Marijuana**
 - o What do you do if an employee comes to work with a prescription?
 - o Do you have to accommodate all medical marijuana users?
 - o Human Rights/Privacy vs Safety – which trumps?
- o **Legalization of Recreational Marijuana in 2017**
 - o What are the implications for employers of recreational marijuana users:
 - o at the workplace?
 - o at work functions?
 - o Is your workplace ready?
 - o what role does your Drug & Alcohol Policy/Fitness for Duty Policy play?
 - o how important is supervisor/manager training and employee awareness of expectations?
- o **Case Study** – workplace marijuana possession/use
 - o Medical vs Recreational?
 - o What are you obligated to do?
 - o What are you entitled to do?

*Executive Director's Report (continued)***PROMPT PAYMENT****FEDERAL UPDATE**

Prompt Payment Legislation, Bill S-224, was introduced in 2016. The Bill passed 1st and 2nd reading in 2016 and is making its way through the process. It is now before the Senate Standing Committee on Banking, Trade and Commerce.

Debate is expected to be completed shortly and then the Senate is expected to give third reading of the Bill. Once complete it will be sent from the Senate back to the House of Commons for vote.

PROVINCIAL UPDATE

Bruce Reynolds and Sharon Vogel have been retained by the government to assist in the drafting of legislation pursuant to their review report. The government is currently drafting the legislation.

The Attorney General has indicated he is committed to introducing fair and balanced legislation this Spring and appears eager to have the legislation passed into law before the end of 2017.

Prompt Payment Ontario (PPO) continues to engage with the Minister and staff. PPO has put forth a date for having the draft legislation ready of April 18, 2017, which would allow for the legislation to be introduced before PPO has its lobby day at Queen's Park on May 17, 2017.

In the meantime, PPO is launching another letter writing campaign to keep prompt payment at the top of the governments priorities. AAO requests all members, office staff and suppliers to visit the PPO website (www.ontariopromptpayment.com) and engage in sending additional letters to your MPP. Simply go to the website and click on WRITE TO YOUR MPP. I've sent mine and within minutes had a response email from my MPP.

Let's swamp our MPP's with letters!

MOL CONSTRUCTION HEALTH AND SAFETY ACTION PLAN AND ACCREDITATION

Ontario Minister of Labour Kevin Flynn and Chief Prevention Officer (CPO) George Gritzotis provided a recent update on the two ministry initiatives.

The MOL Prevention Office continues to put final touches on the Construction Health and Safety Action Plan (CHSAP). The mandated action plan is expected to be released soon. AAO has had input into this plan through participation in the Workplace Participation & Supervision Task Group under the CHSAP.

The Prevention Office also continues to work with stakeholders on the development of a standard for Accreditation (Employer). Employers have been pushing the government for Accreditation for more than a decade. Accreditation is intended to recognize the best performers from a health and safety stand point, to encourage other employers to improve their health and safety performance so that the MOL can allocate its limited resources strategically. The consultation process will be launched soon.

It's expected that an Accreditation standard will be developed and that health and safety management systems such as IHSA's Certificate of Recognition (CoR) will meet the standard. Employers who effectively use health and safety management systems that have met the Accreditation standard will achieve all the benefits that accrue from Accreditation. We expect the WSIB to offer some form of incentive for firms that achieve Accreditation and that buyers of construction will require Accreditation.

Executive Director's Report (continued)**MOL PROVIDES CLARIFICATION ON THE DEFINITION OF CRITICAL INJURY Regulation 834**

If a person is critically injured on a project, the employer and constructor, if any, must immediately notify the MOL Health & Safety Contact Centre, JHSC (or HS Rep) and the union. The notice must be by telephone or other

direct means.

The legal definition of a critical injury set out in Regulation 834 means an injury of a serious nature that,

- a) Places life in jeopardy,
- b) Produces unconsciousness,
- c) Results in a substantial loss of blood,
- d) Involves the fracture of a leg or arm but not a finger or toe,
- e) Involves the amputation of a leg, arm, hand or foot but not a finger or toe,
- f) Consists of burns to a major portion of the body, or
- g) Causes the loss of sight in an eye.

Most of the injury types are straight forward, but in the past there has been some confusion on (d) and (e) above. **Recently the MOL provided notice to provide clarity around the application of clauses (d) and (e) of the critical injury definition.**

In (d), the MOL interprets this provision **as including the fracture of a wrist, hand, ankle or foot** – i.e. any such fracture would constitute a critical injury if it is of serious nature. While the fracture of a single finger or single toe does not constitute a critical injury, the ministry takes the position **that the fracture of more than one finger or more than one toes does constitute a critical injury if it is of a serious nature.**

In (e) above, while the amputation of a single finger or single toe does not constitute a critical injury, the ministry takes the position **that the amputation of more than one finger or more than one toe does constitute a critical injury if it is an injury of a serious nature.**

All companies should review this clarification with supervision. Sometimes, fractures may not be evident immediately – in such situations or if you are unclear of what the definition means, it is best to treat as a critical injury and report to the MOL. Being open and transparent to the MOL can often prove to be invaluable in the long run.

ONTARIO INCREASING MINIMUM WAGE

On March 24, 2017, Minister of Labour Kevin Flynn announced the provincial government would increase the minimum wage. This will bring the wage up to \$11.60 and is effective October 1, 2017. Changes to the minimum wage are announced by April 1 of each year and take effect October 1. By October 2017, the general minimum wage will have increased by almost 70 percent since 2004, where it stood at \$6.85. The minimum wage remained frozen between 1996 and 2003. This will be the 11th minimum wage increase since 2004.

Executive Director's Report (continued)

UPCOMING APRIL 2017 EVENTS

COCA COO/Board Meeting

April 3, 2017

(Paul Gunning attending)

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)

Workers' Compensation Bootcamp

Wed April 5, 2017

Marijuana & Workplace Safety – What's an Employer to Do?

Tue April 11, 2017

Employment Law and the Gig Economy: Ontario's Proposed Changes to Employment and Labour Laws

Tue April 25, 2017

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

Paul Gunning
Executive Director