

2014 OCCUPATIONAL HEALTH AND SAFETY DEBRIEF

by **CARISSA TANZOLA**

Last year, the Ministry of Labour issued more than 125,000 orders under the *Occupational Health and Safety Act* (the Act) and corresponding Regulations and collected a total of \$9.31 million in fines from 780 parties convicted of failing to comply with the Act. Employers in the road building industry should be aware of these “potholes” to minimize the chances of becoming one of next year’s statistics.

Effective Immediately: Workers Include “Unpaid Learners”

Prior to November 2014, a “worker” was defined primarily as “a person who performs work or supplies services for monetary compensation...”. Effective November 20, 2014, this definition was expanded to include unpaid co-op students, certain other learners and trainees participating in a work placement in Ontario. As a result, an employer must ensure all workers on site (including these unpaid learners) are trained on the employer’s health and safety policy and program and provided with the

appropriate orientation on the health and safety risks on site.

Still Being Considered: Additional Employer Responsibilities

In December 2013, the Ministry of Labour introduced its *Worker at Heights Training Standard*. The Standard requires workers who use travel restraint systems, fall restricting systems, fall arrest systems or safety nets as a source of protection against fall hazards, to receive specific training which must be renewed every three (3) years. It is anticipated this Standard will come into effect in early 2015. However, employers may want to begin considering now how this training may be incorporated into existing health and safety training programs.

Don’t Forget: Employer’s Continuing Obligations

In the event of a workplace accident or injury, the fact the employer trained workers in accordance with the Act may not be enough to absolve the employer from liability. The Act

requires an employer to take “every reasonable precaution in the circumstances” to protect the health and safety of workers and ensure workers are provided with sufficient “information, instruction and supervision.”

Keeping current and aware of legislative amendments is a good start, but it’s only the beginning. An employer should refresh its health and safety policy and program at least annually, ensure training protocols are up to date, and provide additional training whenever possible. In addition, all health and safety documentation, including orientation sign-offs, toolbox talk notes and training certificates should be collected, copied and stored both on the jobsite and main office, if possible.

To learn more and/or for assistance with any aspect of occupational health and safety law, workplace safety and insurance, employment or labour law, please contact a member of Sherrard Kuzz LLP. ■

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