Human Resources Legislative Update

Worker's Compensation Updates for Ontario and British Columbia

Date: October 12, 2023

The Ontario Workplace Safety and Insurance Board (WSIB) and WorkSafeBC have made the following changes that may be of interest to employers.

Ontario

The WSIB has made changes to accident reporting timelines and the determination of average earnings for apprentices.

Specifically, Operational Policy Manual 15-01-02 (Employers' Initial Accident-Reporting Obligations) and Operational Policy Manual 11-02-01 (No Lost Time) were modified to align with the legislated requirement for businesses to notify the WSIB of an accident within three business days of learning of their reporting obligation. Previously, the policies indicated that the WSIB must receive a business's accident report within seven business days. The seven-day time period was to account for postal delays between when the report was submitted and when the WSIB received it. The change was motivated by the fact the vast majority of businesses no longer submit accident reports by mail, so the additional time was no longer needed.

With respect to apprentices' average earnings, Bill 46, *Less Red Tape, Stronger Ontario Act, 2023* amended the *Workplace Safety and Insurance Act, 1997* to specify that an apprentice's average earnings are to be an amount equal to the average earnings of a journeyperson in the same trade as the apprentice. The changes are reflected in Operational Policy Manual 18-02-08 (Determining Average Earnings – Exceptional Cases).

British Columbia

WorkSafeBC has posted new guidance regarding return-to-work requirements, which will come into force on January 1, 2024.

Bill 41, *Workers Compensation Amendment Act, (No. 2), 2022* created two new duties for workers and employers:

1) The duty to cooperate will apply to all workers and employers and will create obligations for workers and employers to cooperate with each other, and WorkSafeBC, to achieve a timely and safe return-to-work outcome.

2) The duty to maintain the employment of an injured worker will apply to employers that regularly employ 20 or more workers, and in instances where the employer has employed the worker for a continuous period of at least 12 months prior to the injury. The duty will require the employer to maintain the worker's employment consistent with the worker's fitness to work.

WorkSafe BC has published guidance on these duties for workers as well as employers.

If you have any questions about these changes, please feel free to contact your regular Hicks Morley lawyer.