

Legislative Change: A Primer on Bill 35

Workers Compensation Amendment Act (No. 2), 2015

Bill 35, the *Workers Compensation Amendment Act (No. 2), 2015*, received Royal Assent on November 17, 2015. Bill 35 builds on the legislative changes made under Bill 9 earlier in 2015 that strengthened WorkSafeBC's ability to promote and enforce occupational health and safety compliance in B.C. workplaces.

A number of the changes introduced by Bill 35 focus on expanding the role of joint occupational health and safety committees in workplace health and safety, as well as adding a new type of incident for employers to report.

Below is a summary of the Bill 35 changes that will be effective as of January 1, 2016.

Reporting workplace fires or explosions

Section 172 (1) has been amended to require that employers immediately report to WorkSafeBC all workplace fires or explosions that had the potential to cause serious injury to a worker. They must also continue to meet the existing requirement to investigate in accordance with sections 175 and 176 of the Act and related policies.

Role of committees and worker OHS representatives

Provision of preliminary and full incident investigation reports

Sections 175 (2) and 176 have been amended to require employers to provide both preliminary and full incident

investigation reports to the employer's joint occupational health and safety committee or worker health and safety representative, as applicable, or, if neither exist, post these reports at the workplace.

Previously, employers could voluntarily provide preliminary and full investigation reports to health and safety committees or worker representatives. Now, the changes in Bill 35 make it mandatory to provide these reports, in addition to the interim and full corrective action reports, to the committee or representative, or to post at the workplace if neither exists.

Bill 35 also specifies the preliminary incident investigation report is to be provided to the committee or representative, or to post at the workplace if neither exists, as soon as practicable after the report is completed and the full report provided within 30 days of the incident (subject to extensions).

Participation in the employer's investigation

The Act stipulates that employer incident investigations must be carried out with the participation of employer and worker representatives. Through Bill 35, Section 174 has been amended to specify that the participation of an employer (or representative of the employer) and worker representative may include, but isn't limited to, the following:

- Viewing the incident scene with the persons carrying out the investigation
- Offering advice on the investigation's scope and methods

- Taking part in other activities set out by WorkSafeBC in the Occupational Health and Safety Regulation. WorkSafeBC will be developing regulation, in consultation with stakeholders, to elaborate on this point.

Proposed equipment and machinery changes

Section 130 has been amended to require joint occupational health and safety committees to advise the employer on significant proposed equipment and machinery changes that may affect worker health and safety.

If, for example, a manufacturing facility is planning to add a new machine for production, the joint committee may advise the employer on health or safety aspects of the change.

WorkSafeBC's proactive role in assisting committees

Section 132 has been amended to allow WorkSafeBC to take a proactive role in assisting committees to resolve disagreements over health and safety matters, even if the committee has not formally reported these matters to WorkSafeBC.

Administrative changes

Bill 35 also amended the Act to address administrative issues relating to WorkSafeBC's annual report and service plan and to the WorkSafeBC Superannuation Plan, which took effect on November 17, 2015 when the bill received Royal Assent.