December, 2019

The Employers' Adviser

A newsletter by the Employers' Advisers Office, Ministry of Labour, B.C. Government.
The Employers' Advisers Office provides advice, assistance, representation and seminars on all aspects of workers' compensation.
To subscribe/unsubscribe, call 1-800-925-2233 or email EAO@eao-bc.org
EAO Website: www.gov.bc.ca/employersadvisers

Out for Consultation

1. **Part 18 and Part 26 Regulations:** Feedback is being requested regarding the alignment of traffic control regulations with the latest edition of the Traffic Management Manual (Part 18); and regarding new requirements for arborists (Part 26). Submissions are due January 10, 2020.
2. **New Guidelines Proposed** for Part 11 – Instruction in fall protection system; Part 12 – Industrial robots; and Part 24 – Minimum crew requirements for diving. Submissions are due December 27, 2019.
3. **Further New Proposed Guidelines for Diving** (dive site; safe diving procedures; and minimum dive crew for scuba diving) are open for feedback until January 25, 2020.

Legislation News

On October 1, a consequential amendment to s. 52 of the *Workers Compensation Act* took effect. This amendment excludes liens for wages due to workers by their employers and liens under s. 50 of the *Temporary Foreign Worker Protection Act* from inclusion in amounts owing to WorkSafeBC.

Also in early October, Cabinet approved **April 6, 2020** as the effective date for the new *Workers Compensation Act*, recently revised under the *Statute Revision Act*. These changes are not substantive; rather, they re-organize the parts and divisions and update the language to make the statute more accessible and easier to understand. More to come on this in the New Year!

British Columbia has become the first jurisdiction in Canada to pass legislation implementing the United Nations Declarations on the Rights of Indigenous Peoples. Bill 41 - *Declaration on the Rights of Indigenous Peoples Act* received Royal Assent on November 28 and took effect on that date. The purpose of the new statute is to affirm the application of the Declaration to BC laws and contribute to its implementation, and to support the affirmation of, and develop relationships with, Indigenous governing bodies.

Changes to Policy and Practice

1. Effective February 1, 2020, claims policy will amend the adjudication process for activity-related soft tissue disorders (ASTDs), requiring decision-makers to consider the condition as both an injury and as an occupational disease in certain circumstances.
2. The Permanent Disability Evaluation Schedule (PDES) was amended to set the rating for comminuted calcaneal fractures at 7%; clarify ratings for nerve root and peripheral nervous system conditions; and make minor editorial changes. The changes took effect December 1, 2019.

Investigation Report into 2017 Motorcycle Fatality on Deadpool 2 Film Set Released in October

During filming, a stunt performer died after she was ejected from the motorcycle she was operating and crashed into the window of a building. Contributing factors included the production company's failure to conduct a risk assessment; failure to provide orientation and safety headgear; and failure to adequately set-up and plan the workplace.

Reviews Likely to Lead to Legislative Changes

Lawyer Lisa Helps added her Report to several others requested by the government to recommend improvements to the workers' compensation system. Ms. Helps' Report reviews the amendments which came into effect after the sawmill explosions in 2012. This report, along with that by Paul Petrie, who reviewed claims processes from a worker perspective, and Terry Bogyo's Report, reviewing options for the accident fund, will likely lead to amendments to the *Workers Compensation Act* in the spring of 2020. Stay tuned!

EAO's Kelowna office is Moving on Up!

Effective December 16, the Kelowna office will be moving to a new unit in the same building. The new address is Suite 401, 1726 Dolphin Avenue, Kelowna, BC V1Y 9R9.

Wishing you a Safe and Happy Holiday Season!