

In This Issue:

Ministry of Labour shows it means business.

Understanding the importance of the W.S.I.B Workwell 'Review'.

Recent job losses mean more pressure on unions to organize.

Welcome to the September 2007 issue of the Priority Health & Safety newsletter. Our goal is to keep our present and prospective clients up to date on news from the Ministry of Labour. We also hope to keep you informed of events in the world of employee relations and of any changes in labour or O.H.S.A legislation that may have an impact on your business.

Who is Priority Health & Safety Inc?

We are a group of professionals with 60 years of combined experience in the design of company specific Health & Safety policy & procedure manuals, W.S.I.B Audits and claims management and occupational health & safety training. As well, we have 23 years of solid front line labour relations experience.

We offer our professional services to companies to assist them in dealing with the details of government of legislation and regulations often on a daily basis. Our sound advice is based on personal understanding of the demands made on companies by provincial legislation. Our experience allows us to offer advice to management concerning how to become and remain compliant with the O.H.S.A Section 25. (1)(2). Most importantly, we do our utmost to help our clients show that they have done everything reasonably possible for the safety of their workplace. Without knowledgeable advice, the Occupational Health & Safety Act can be a legal minefield for companies if they have a serious accident in their workplace and then find themselves before the courts unable to prove that they practice due-diligence.

In our second edition, we would like to remind you how serious the Ministry of Labour, the W.S.I.B and, ultimately, the courts are about enforcing the Occupational Health & Safety in every workplace. Please Visit **www.labour.gov.on.ca**

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Due Diligence

"Due Diligence" is most often used to describe the legal concept as a defence against charges laid under provincial statutes, including the *Occupational Health & Safety Act ("OH&SA")*. Charges may arise from:

1. Failure to comply with OH&SA and Regulations, i.e. WHMIS, designated substances etc.
2. MOL inspections resulting Orders;
3. Failure to comply with Company Health & Safety policies and procedures
4. Workplace injuries, accidents and fatalities

Officers, directors, supervisors, workers and the Company can all be charged under the OH&SA.

The Workwell 'Review'

The WSIB Workwell audit requires that all elements (parts) of the company's programme must:

- a) Be in writing as per the legislated requirement,
- b) Show proof of communication of those elements to the workplace parties and
- c) Have evidence of regular use in the workplace for the procedures that you lay out.

In addition, the Workwell auditor may require a payroll list and list of assets. In regards to training, you may need to show that there is a transfer of knowledge. The auditor may question workers or use some other method to determine that the training 'stuck'.

The importance of having a Workwell review done for your workplace cannot be overstated. It will give you, the employer, a better understanding of potential risks or hazards that exist. The information that is gathered will guide you in determining what needs to be included in your Policy and Procedure manual. It can also be invaluable to an employer who finds himself under scrutiny by the W.S.I.B and the Ministry of Labour after an accident of a critical nature has taken place. Section 135(2) of the Workplace Safety & Insurance Act states:

Inspection of premises

The Board may enter into the establishment of an employer and the premises connected with the establishment for the following purposes:

1. To ascertain whether the ways, works, machinery or appliances in the establishment or on the premises are safe, adequate and sufficient.
2. To ascertain whether all proper precautions are being taken to prevent accidents to the workers employed in or about the establishment or premises.

Our Mission:

To assist businesses in the process of making their workplace safe and productive for all personnel, reducing lost time accidents, injuries and business costs while complying with government rules and regulations in a timely manner.

3. To ascertain whether the safety appliances or safeguards required by law are used and employed in the establishment or on the premises.
4. For such other purpose as the Board considers necessary to determine the proportion in which the employer should make payments under this Act. 1997, c. 16, Sched. A, s. 135 (2).

It is important to understand that the Workwell review document is a questionnaire that contains 170 questions. The Audit normally takes 2 to 3 hours to complete. A company which scores less than 75% will be re-visited after 6 months. If a company fails the second audit they can expect to be fined. We recommend that all companies have an audit done annually as this is the most cost effective way of ensuring that their Health & Safety Policy & Procedures remain up to date and in compliance with sec 25(2) of the O. H. S. A.

From Our Labour Relations Specialist

John W Clark

We are all aware of the recent announcement by General Motors that they will be closing one entire shift at their plant in Oshawa. They will be laying off between 1200 and 1500 workers. This will cause a lot of stress for the hard working people that have relied on the GM plant for a living and who now find themselves out of work. And it will also put a lot of pressure on the executive of the C.A.W. to get out and organize somewhere else to replenish their treasury. The announced layoff at the G.M plant is only one of many closures within the manufacturing sector that has seen C.A.W. members loose their jobs.

Over the last few years the C.A.W has lost many thousands of dues-paying members to plant closures. This reflects millions of dues dollars gone from their local unions. The layoff at GM alone will cost that local around 1 million dollars a year in lost income and the C.A.W. are not about to sit back and do nothing. The organizing staff of the C.A.W. are (in my humble opinion) the best trained, smartest and most driven organizers in the Canadian labour business.

In the August issue of this newsletter I spoke about the seven major International Unions/ American Labour Businesses. I told you that they have now formed their own labour federation and how they are funding their Canadian affiliates to go out and organize. Their aim is to ensure that they achieve their perceived market share of Canada's non-union workforce. See www.L.I.U.N.A.org.

You can be sure that the C.A.W. will not let any international union/ American labour Business take what they believe is their market share. You will see, over the next year, a surge in union organizing activity especially in the service industries. The competition will be fierce as these unions beat the bushes for any group of employees who may be vulnerable and willing to listen to the union organizers' sales pitch. Remember: don't over react if you find that your company has been targeted by a union.

Your workplace safety is our priority

The material contained in this newsletter is for information purposes only. It is not intended as legal advice and should not be accepted as such.

Don't hesitate to call our labour Relations department if you have any questions.

The Labour Relations Act of Ontario places severe restrictions on employers during union organizing campaigns. Please see the following:

Section 70, O.L.R.A

No employer or employers' organization and no person acting on behalf of an employer or an employers' organization shall participate in or interfere with the formation, selection or administration of a trade union or the representation of employees by a trade union or contribute financial or other support to a trade union, but nothing in this section shall be deemed to deprive an employer of the employer's freedom to express views so long as the employer does not use coercion, intimidation, threats, promises or undue influence. 1995, c. 1, Sched. A, s. 70.

Section 72.O.L.R.A

No employer, employers' organization or person acting on behalf of an employer or an employers' organization,

(a) shall refuse to employ or to continue to employ a person, or discriminate against a person in regard to employment or any term or condition of employment because the person was or is a member of a trade union or was or is exercising any other rights under this Act;

(b) shall impose any condition in a contract of employment or propose the imposition of any condition in a contract of employment that seeks to restrain an employee or a person seeking employment from becoming a member of a trade union or exercising any other rights under this Act; or

(c) shall seek by threat of dismissal, or by any other kind of threat, or by the imposition of a pecuniary or other penalty, or by any other means to compel an employee to become or refrain from becoming or to continue to be or to cease to be a member or officer or representative of a trade union or to cease to exercise any other rights under this Act. 1995, c. 1, Sched. A.

Health and Safety Training

Priority also offers a full range of health and safety training classes. Call the office for times and dates.