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November 2021

WSIB SURPLUS FUNDING DISTRIBUTION – THE DEVIL IS IN THE DETAILS

Schedule 6 of Bill 27 Working for Workers Act, 2021 proposes amendments to the Workplace Safety and Insurance Act that if passed will give the WSIB discretion to make financial distributions to Schedule 1 employers in the provincial compensation scheme when the funding level on a going concern basis exceeds 115% and requires the WSIB to make such distributions when the funding level exceeds 125%.

We expect the Bill to pass Third Reading vote and receive Royal Assent on November 30, 2021.

While on its face, this seems to be positive for employers (COCA had recommended a much lower corridor than 115% to 125% in pre-Bill consultations and to the Legislative Standing Committee on Social Policy that considered the Bill) as they say, the devil is in the details and the details in this regard will be in the regulations that put this change into action.

For example, Minister McNaughton has openly stated that distributions will be made only to “safe” employers. This doesn’t seem to be an unreasonable objective on its face (even though all employers regardless of their records have contributed to the surplus funding). It might serve as an incentive for “unsafe” employers to change their ways. But what will be defined as a “safe” or an “unsafe” employer in the regulations. Wouldn’t it simply be more efficient to make distributions to all Schedule 1 employers pro rata based on premiums?

This is but one of the details that will be spelled out in the regulations.

The devil is most certainly in the details.

COCA HAS MOVED

Our new address is:

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KNOWLEDGE DEFICIT IN USES OF PRESSURE TREATED WOOD

There could be widespread knowledge deficit regarding the uses of pressure treated lumber. You may not be aware that not all pressure treated lumber is the same. There are a number of different types of/ standards for pressure treated wood, each one for specific applications. It seems that builders, lumber dealers, engineers, municipal building officials may not be as well informed as they should be about them. Lumber dealers may only stock a limited selection and could unknowingly recommend the incorrect type for the intended application.

This issue is of particular importance to builders of pole barns. It was brought to the attention of the industry by former COCA chair, Gary van Bolderen. See the article from the Daily Commercial News at the following link:

[https://canada.constructconnect.com/dcn/news/resource/2021/11/farm-builders-wpc-react-swiftly-to-wood-post-durability-concerns?ct=t\(DCN_2021_11/17\)&mc_cid=4263cfa516&mc_eid=cdb6375686](https://canada.constructconnect.com/dcn/news/resource/2021/11/farm-builders-wpc-react-swiftly-to-wood-post-durability-concerns?ct=t(DCN_2021_11/17)&mc_cid=4263cfa516&mc_eid=cdb6375686)

Upon learning about van Bolderen's experience (he had discovered what he considered to be premature rotting of several structural in-ground structural poles in a 12 year old pole barn) the Canadian Farm Builders Association (CFBA) swung into action. Believing that van Bolderen's experience was not a "one off" and that this problem is very likely widespread, they quickly formed a Task Force to address the issue.

The Task Force is mandated to:

- Collaborate with all identified primary stakeholders who could be impacted by or involved in this situation
- Help the primary stakeholders determine how to address and resolve potential safety issues resulting from this occurrence
- Share information & educate association members--acting as a conduit to provide and share information between our association members and the primary stakeholders
- Review & participate in discussions with Wood Preservation Canada (WPC)
- Keep the CFBA board informed of committee action & progress

The Task Force has sent two alerts to CFBA members to make them aware of the situation. To get informed about this issue, go to the CFBA website at the following link <http://www.cfba.ca/default.asp> and click on the links under the red "News and Events" banner.

ONTARIO HEADED IN RIGHT DIRECTION OR WRONG DIRECTION – ONTARIANS SPLIT

Here are selected highlights from a Maru Public Opinion survey of 1,280 Ontario adults randomly selected from Maru's pool of online panelists conducted between November 19th and November 23rd, 2021:

Half of the survey respondents believe the Ontario government has the province headed in the right direction while half believe the province is headed in the wrong direction

Among those who believe the province is headed in the right direction are:

- Men (55%)
- Ontarians aged 55+ (54%)
- Those earning more than \$100,000 annually (58%)
- The highest educated (54%)
- Live in the GTA (54%) or Eastern Ontario (53%)

Among those who believe the province is headed in the wrong direction are:

- Women (54%)
- Ontarians aged 35 – 54 (53%)
- Those earning less than \$50,000 annually (55%)
- Those with immediate college or technical school educations (52%)
- Live in Hamilton-Niagara (57%), Northern Ontario (56%) or Southwestern Ontario (54%)

The poll has a margin of error of +/-2.6% 19 times out of 20.

These survey results should provide some comfort to the Ford government which only needs between 37% and 40% of the vote on June 2, 2022 to form another majority government and whose popularity had been polling lower in a number of recent surveys.

ADJUDICATION - IT'S NOT AS COMPLICATED AS YOU THINK!

Tuesday, January 25, 2022, 03:00 PM

ODACC (Ontario Dispute Adjudication for Construction Contracts) is the Authorized Nominating Authority appointed to administer and oversee adjudication of all construction disputes in the province. No matter what the dollar amount involved, the process can be simple and quick.

Facilitator Ted Dreyer of Madorin, Snyder LLP and Chair of the GVCA, and panellists Dan Leduc, a lawyer at Norton Rose Fulbright LLP and board member of the Ottawa Construction Association, and Elise Teitler, a lawyer and Project Manager with ODACC, will explain it all.

Get answers to these questions:

- What is adjudication?
- What type of dispute can be adjudicated?
- What is ODACC's role?
- How much does adjudication cost?
- How do you start an adjudication?
- How is an adjudicator appointed?
- How does the process work?
- How does ODACC's portal work?

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