



Ref: 60055

September 18, 2020

Chris Atchison
President
British Columbia Construction Association
Email: chris.atchison@bccassn.com

Dear Chris Atchison:

Thank you for your correspondence regarding your concerns with Bill 23, *Workers Compensation Amendment Act, 2020*.

As Minister of Labour, I very much appreciate receiving your correspondence regarding this important legislation, and I am pleased to respond to the concerns you have raised.

As I noted in the Legislative Assembly, even though WorkSafeBC is already undertaking important policy and program improvements, there are some improvements to the workers' compensation system in British Columbia (BC) that required amendments to the *Workers Compensation Act* at this time.

Bill 23 provides a number of modest but important improvements to the workers' compensation and the occupational health and safety systems. These improvements are necessary to keep workers safe and to support injured workers and their dependents while ensuring that these changes are affordable for employers.

It is important to note that many of the significant changes in Bill 23 reflect the findings and the recommendations from four reviews undertaken since 2017 to examine different aspects of the system.

As you are aware, in April 2018, Paul Petrie reported on his review of WorkSafeBC's policies to ensure a worker-centred approach wherever practical.

In December 2018, Terry Bogoyo delivered his report examining options for WorkSafeBC's accident fund and the excess surplus. This review included a number of options for using the excess surplus to increase workers' compensation benefit levels, including in areas where BC has fallen behind other jurisdictions. Given the financial uncertainty that has since arisen with the COVID-19 emergency, many of these options are not being addressed at this time. Bill 23, however, does include several of the more modest proposals in Terry Bogoyo's report.

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In August 2019, Lisa Jean Helps reported on her assessment of Government and WorkSafeBC's progress in implementing recommendations stemming from past reports into the tragic Lakeland and Babine sawmill explosions in 2012. Although Lisa Jean Helps reported favourably on the improvements made to date, she did recommend a number of further changes, including four new legislative amendments to better protect workers' health and safety and to support WorkSafeBC's health and safety inspection program. Bill 23 makes all four of these statutory changes.

Lastly, earlier this year Jeff Parr consulted with businesses, workers, and Indigenous representatives on the legislative proposals in the Petrie, Bogyo, and Helps reports and made recommendations for legislative change based on what he heard. Most of the significant changes in Bill 23 were reviewed with these stakeholders and were endorsed in Jeff Parr's consultation report. However, it is important to point out that Government is not moving ahead with all of the recommendations, due to the COVID-19 emergency.

Regarding the issue of a disease presumption for COVID-19, Government and WorkSafeBC recognize the occupational health and safety issues that workers, including essential workers, are facing as they go to work during the current pandemic. It is in this context that WorkSafeBC has established an occupational disease presumption for COVID-19.

Bill 23 included a provision that permits fast-tracking the effective date of presumptions established by WorkSafeBC's Board of Directors for occupational diseases caused by viral pathogens. On August 14, 2020, the *Workers Compensation Amendment Act, 2020* received Royal Assent. You may view this legislation at the following website:
<https://www.leg.bc.ca/parliamentary-business/legislation-debates-proceedings/41st-parliament/5th-session/bills/progress-of-bills>.

Subsequently, on August 19, 2020, the WorkSafeBC Board of Directors approved amending the effective date of the Schedule 1 amendments regarding an occupational disease presumption to August 20, 2020. This resolution can be viewed at the following WorkSafeBC link:
<https://www.worksafebc.com/en/resources/law-policy/board-of-directors-decisions/bod-2020-08-19-01-revising-effective-date-schedule-1-amendment?lang=en>.

This presumption means that if workers in certain occupations are diagnosed with COVID-19, it is presumed that their disease is work-related and evidence that they specifically acquired COVID-19 at work is not required. This presumption makes it easier for workers to obtain workers' compensation benefits if they are working in certain occupations where the scientific and medical evidence show they are at greater risk of exposure to COVID-19.

It is important to note that a presumption does not presume that a person has COVID-19 if they are simply showing symptoms associated with COVID-19. Eligibility for workers' compensation requires a diagnosis of COVID-19, but this presumption removes the requirement for specific evidence that it was contracted through work.

I do understand that there are concerns about the timing and content of Bill 23; however, as noted above, there have been a number of areas where attention was urgently needed to ensure our workers' compensation system is responsive to the needs of injured workers and that gives WorkSafeBC the tools necessary to investigate workplace incidents that result in serious injuries or fatalities. I understand the context of the current public health emergency and that is why the changes are modest, notably with my decision to not proceed with the more costly elements identified as opportunities for change in the Bogyo and Helps report. I remain committed to ensuring our workers' compensation system is the best in the country and that we pursue a goal to make BC the safest jurisdiction in the country for workers.

Thank you again for writing.

Sincerely,

A handwritten signature in black ink, appearing to read "Harry Bains", with a horizontal line underneath it.

Harry Bains
Minister of Labour