



February 2nd, 2021

The Honourable Monte McNaughton
Minister of Labour, Training and Skills Development
14th Floor, 400 University Ave.
Toronto, ON M7A 1T7

Dear Minister McNaughton,

This past year has been extremely challenging for all Ontarians. Your continued strong support for the industrial, commercial, institutional and heavy civil construction sector is very much appreciated by COCA and all 29 of our member associations. We are grateful that the majority of our sector was able to stay on the job over the past year, with COVID-19 safety protocols firmly in place.

There have been many “firsts” this year for both government and industry as we navigate the effects of a global pandemic. One such first is Bill 238, the Workplace Safety and Insurance Amendment Act, 2020.

While we appreciate the intention of your government to protect the interests of both employers and workers in these unprecedented times, we are deeply concerned that Bill 238 contradicts the fundamental operating principles of the workers’ compensation system. It also contradicts the advice delivered this past fall in the government-commissioned operational review of the WSIB.

The unintended consequence of Bill 238 will be to undermine the financial stability of the WSIB due to a significant imbalance in premium and benefit payments.

The bill allows for an artificially high Maximum Insurable Earnings (MIE) ceiling of \$102,800 in 2021 for benefit payments—a 7.8% increase over the MIE rate of \$95,400 in 2020. This extraordinary increase is due to the impact of COVID-19 and the significant short-term drop in lower paid workers from the workforce. It is an aberration that does not reflect the actual increase in workplace earnings, which would reasonably be in the 2% range. For premium payments, Bill 238 rightly caps the MIE at \$97,308, a 2% increase over 2020.

We strongly recommend that the government legislate the MIE for 2021 at \$97,308 for all purposes under the WSIB system. A responsible alternative would be to freeze the MIE at the 2020 ceiling for use in calculating both premiums and new benefits in 2021.

It is important to note that the application of the MIE produces higher payments in more than one year, creating a long-term imbalance in the system and inequities for both employers and workers. It will be very difficult for the government come June 2021, when the wage profile of Ontario’s industrial wage earners is likely to have normalized somewhat. This will cause the Average Industrial Wage and the MIE to decline, leading to lower benefits on new claims.



Bill 238 will treat employers differently. Since the costs of the higher earnings claims go through the experience rating process, larger employers with high accountability percentages applied to their experience will face unexpected future premium increases because of inadequate premiums. Conversely, there will be minimal impact on small employers with low accountability percentages.

Additionally, by collecting premiums at the employer level using a lower MIE, this unfairly benefits employers having a larger number of higher earning employees and hurts other employers who ultimately cover the cost of the deficiency.

To avoid serious problems going forward, the government must follow established guiding principles for responsible operation and funding of the insurance system. Our industry is very concerned that Bill 238 is reminiscent of decisions made by previous governments and previous WSIB administrations that led to the WSIB's enormous unfunded liability. The 2009 Auditor General's Report eventually steered the system back on track, and we urge you to not let it be derailed again.

I very much appreciate your attention to this important issue, and I would be pleased to discuss these matters with you at your very early convenience. Thank you again for your ongoing support.

Sincerely,



Ian Cunningham
President

CC: Josh Workman, Chief of Staff
Alexandra Rodgers, Director of Policy
Walid Abou-Hamde, Director of Stakeholder Relations
Greg Meredith, Deputy Minister