

The Ontario **ELECTRICAL CONTRACTOR**

Vol 56 • Issue 1 • Q1 2018



Tackling the Electrical
Black Market

What's the Current
Status on Tax Reform
Changes for Small
Business Owners?

Legalization of Recreational
Cannabis May Put Workers
and Employers at Risk

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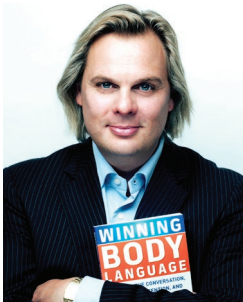
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ECAO 2018 ANNUAL INDUSTRY CONFERENCE IN BARCELONA, MAY 26/27 – JUNE 2, 2018

The ECAO conference is designed, in part, to provide relevant and meaningful business content to its members. This year's program includes an impressive roster of speakers. Their exciting presentations, combined with informal idea-sharing throughout the conference, are sure to have a positive impact on your business long after you return home.



MARK BOWDEN

Body Language Expert & Trainer

Mark Bowden is a high-octane speaker. During his interactive keynote, you will learn simple yet effective methods for reading body language and how to adopt behavioural techniques to achieve results in business.



MARK CASALETTO

ConstrucConnect - Canada. President

Mark is a trusted leader and advisor to the Construction industry. He returns this year to discuss issues affecting construction today, including current events, changing markets, future trends and how digital technology is transforming the way we work.



DAN LEDUC

Norton Rose Fulbright. Partner

Dan practices construction law and dispute resolution. His keynote focuses on how the *Prompt Payment Act* impacts your business. Following the Wednesday hospitality suite Q & A session, Dan will address the contractor issues on Thursday.



NORM KEITH

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Norm Keith's practice specializes in employment, regulatory and occupational health and safety law. His keynote on substance abuse in the workplace, and how to manage the risks, is of special interest to electrical contractors.



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FROM THE PRESIDENT, MARK LLOYD

I am relatively certain that the Holiday Season is but a distant and, hopefully, wonderful memory. Without much time to savour those times with family, friends, food, and fun, your ECAO began 2018 with a full agenda. Further, and I am pleased to pass this along, they did this with excitement, professionalism, and thoroughness.

With the sole goal of providing you, our members, with better representation, services, and information, your ECAO is developing a greater knowledge of the subject-matters that impact our members and quicker, more professional response to membership needs. In order to accomplish this, ECAO's personnel and areas of expertise are:



Graeme Aitken, Executive Director

Graeme oversees the management, administration and strategic planning of the ECAO.
416-675-3226 ext.3110

Ania Paliwoda, Sr. Office Coordinator

Ania administers the Certi-fire Program, ECAO events and supports the Executive Director in office administration.
416-675-3226 ext.3160675-3226 ext.3110



Jodi Travers, Manager Labour Relations

Jodi oversees and advises on labour grievances, and leads the ECAO on bargaining and negotiation issues as well as matters pertaining to occupational health and safety regulations. 416-675-3226 ext. 3140

Cristina Pezzente, Administrative Assistant

Cristina is responsible for all administration, reception and meeting coordination for ECAO, and membership liaison.
416-675-3226 ext. 3000



Cathy Frederickson, Communications Specialist

Cathy coordinates the ECAO e-news, *Electrical Contractor* magazine and the Affiliate Partner Program. 416-675-3226 ext.3130

Lou Stranges, Accounting

Lou is responsible for ECAO's day-to-day and year-end financial reporting. 416-675-3226 ext. 3150



... This group of six has continued to administratively support me in my role as ECAO President, as well as provide valuable context and advice to me and the entire Board of Directors. My experiences with our ECAO office, and there have been many as President, allow me to unequivocally recommend that our members should not hesitate in contacting ECAO with their issues and concerns.

... Communications to our members this year has made it clear, I think, that ECAO is looking beyond how we have “always” done things to actively trying new approaches. One of these areas is our social media presence. When our site and our electronic messaging receive more views, hits, re-tweets, etc., our members are similarly in receipt of greater exposure and the promotion that accompanies notice. Simply look around at meetings you attend; it is likely that more than half the room at least glances at a mobile device of some description. ECAO plans to capitalize on this societal obsession with electronic communications, particularly younger members and potential clients. That is not a signal to end our e-news or magazine. We will continue to produce and distribute both of these, however, there is a limited distribution of the magazine and e-news. Social media has a virtually unlimited distribution potential. ECAO wants to put our members and affiliated partners in a more prominent position, a place where far more Ontarians will know that ECAO is the Electrical Contractors Association of Ontario.

It's not too late to register for our 2018 Conference in Barcelona, Spain. The 2018 Conference is from May 27 to June 1, and we have a number of excellent speakers eager to speak to a packed room. In addition, we have more of our industry partners registered than we have had at any conference in recent memory. This is also a tremendous chance to

Communications to our members this year has made it clear, I think, that ECAO is looking beyond how we have “always” done things to actively trying new approaches.

interact with your ECAO Board of Directors; to learn about and educate us. The venue, the topics, the attendees, and the opportunities for networking are all outstanding.

Please keep on top of all the ECAO developments, plans, and successes through our bi-weekly e-news. By doing so we hope that you will find value for your business. Reading ECAO publications and providing feedback will, I believe, increase that value. That's right: we still want to hear from you. This is your association!

I genuinely look forward to hearing from you and I am excited to bond over food and drinks with you in Barcelona.



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FROM THE EXECUTIVE DIRECTOR, GRAEME AITKEN

I am really excited and optimistic making my debut in *The Ontario Electric Contractor* as the Executive Director of your ECAO, the role for which I have been preparing for the majority of my working life.

Local 105, in Hamilton, is where I began my career in the industry. As with many others, I followed my father into the construction and maintenance electrician trade. It didn't take long for me to get involved in the labour relations aspects of the industry, as I sat on the Joint Apprenticeship Council as an apprentice. Many of you, and certainly those of you with whom I have interacted over my recent career, are quite familiar with my activities over the last 20 years or so. However, it is these early days on the tools, learning my trade (which I have, of course, long forgotten in large part), and contributing to the industry that bring me full circle to this position at this time.

To the tools I have returned, albeit they are a different set of tools. Today's tools include relationship-building, legal analysis, creative thinking, managing, marketing, lobbying, and perhaps most importantly, listening. These are tools that I have attempted over my years with which to become more proficient and further advanced; the proper tools for the job, as we have been oft-advised. Fortunately I have tremendous resources from which and whom to learn, much like the journeypersons who mentored me

as an apprentice; the ECAO Board and committees, industry partners, ECAO's institutional oral and recorded history, my outstanding colleagues here at the ECAO office, and each of you: our members, affiliate partners, industry partners, and friends/supporters. And while I feel I have had notable contributions to the unionized electrical/construction industry, any such contributions were but my apprenticeship to this position. As I did

There is no doubt that ECAO
has significant, varied, and
important accomplishments;
on those we must build,
however on those
we cannot rest.

as a young journeyperson in the trade, though, I fully recognize that my learning does not simply end at the apprenticeship stage. In fact, with greater responsibility I am, in my view, taxed with the need for greater learning.

One of the first things I have learned this year is that there is much to be

done at ECAO, and there is no more appropriate, delicate, nor succinct way to state this. There is no doubt that ECAO has significant, varied, and important accomplishments; on those we must build, however on those we cannot rest. By the time this publication is in your hands Jodi and/or I will have visited many of you, and have interacted with even more. We will have asked you how we can be more relevant, integral, and useful to

your business and industry. You will have heard or read our pleas for your views, expertise, and participation. And, those who have not yet had this experience will soon. It is ECAO's vision to ensure that we are the brand that is first thought of when the electrical industry is discussed in the Province of Ontario.

The translation of ECAO's vision to tangible results is the task that excites me, and I am optimistic about the effective translation of that vision. However, ECAO operates better with contributions by many, accomplishes more with everyone's ideas and viewpoints, and benefits a greater number of members and affiliate partners when we have participation

from all of our sectors. That is the assistance I am seeking from you – answer surveys, read our publications and e-news, attend ECAO functions and events, offer your point of view, and volunteer for ECAO committees.

Join me in the excitement about our optimism for ECAO.

IBEW Construction Council of Ontario

ibewcco.org

John Grimshaw, *Executive Secretary Treasurer*
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MESSAGE FROM THE JEPP CO-CHAIRS

The Joint Electrical Promotion Plan (JEPP) will be working harder than ever in 2018 to address the needs of our membership and help them be successful.

Our JEPP Board, composed of ECAO and IBEW members, work together to oversee the promotional and educational activities of JEPP and to ensure funds are being spent effectively. Equally important are the local JEPP committees, who are sounding boards on local issues and opportunities unique to each geographic region.

Looking further into 2018, we expect to work even more closely with local JEPP Committees to develop marketing and training initiatives that are relevant and useful. We have put more dollars into local projects, and we've also strengthened the criteria and oversight to ensure the projects we support are effective and in line with JEPP goals. We will refresh our strategic plan through your input, build an advertising campaign that raises value of ECAO/IBEW and provide educational opportunities to ensure our members have the right tools to be effective in building the union electrical contractor brand and their businesses.

Sherri Haigh was hired in fall of 2016 and has already made some significant progress in creating assets and activities to promote our brand so we can effectively market the right messages to the right audiences. Some of the projects that took place under Sherri's oversight included:

- A television commercial featuring member electricians and contractors which was televised on CBC, CTV and Global news as well as being hosted on our new YouTube channel where it received close to 70,000 views.

- A website – poweringcommunities.ca – that is dedicated solely to marketing our accomplishments and our people.
- A partnership with the JUNOs that included a photo op of an ECAO contractor and IBEW electrician walking down the Red Carpet as the “stars behind the stars.” This sparked significant media attention and support from key influencers in the industry.
- Participation in the Association of Municipalities of Ontario (AMO) conference meeting with provincial and municipal politicians to talk about procurement and why certification and training matter.
- Building relationships with key influencers including all levels of government, construction-sector purchasers, high profile charities and entertainment leaders who benefit from our services.
- New processes and criteria for local JEPP funding which are resulting in more effective programs on the local level. As well, locals now have the benefit of support from Sherri who will work with members to develop and help implement JEPP-supported programs.

Central Ontario received JEPP funding to host a stakeholder gala attended by clients and politicians from all levels of government. The regional head of Habitat for Humanity spoke at this event, praising the ECAO/IBEW for their contributions to the community. A video highlighting the rich history of the local contractor/IBEW team was also shown to the 200 attendees to demonstrate the key role our members have had in building their community safely and effectively. Another

success to be highlighted was in Niagara. The local received funds to participate in the Niagara Public Construction Procurement Summit that brought together over 90 key stakeholders from politicians and procurement staff to general contractors and trade contractors. The conference was an important step towards creating a level playing field for contractors and an efficient and transparent procurement process for government tenderers.

In 2018 the ECAO and IBEW will continue fighting Schedule 17 through the courts. The Schedule 17 amendments introduced by the Provincial Liberal Government allow untrained, uncertified workers to perform the work of a compulsory trade and is likely to put workers and the public at risk while allowing the underground economy to thrive.

Looking further into 2018,
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more closely with local
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and training initiatives that
are relevant and useful.

Whether marketing or stakeholder relations programs, we are seeing the benefits of contractors and electricians working together for the same cause. We look forward to working closely with Graeme Aitken, the new Executive Director of the ECAO. Graeme's extensive experience in the industry and his understanding of the value of partnership will be important assets as our member contractors and IBEW electricians continue to work together to build our brand and grow market share through JEPP.

Now, more than ever, we need to keep our foot on the gas and push forward to make the ECAO/IBEW brand recognized and valued as the best choice for electrical contracting services.

Chris Cimek
Co-Chair
ECAO

Lorne Newick
Co-Chair
IBEW-CCO

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Challenging the *Ontario College of Trades and Apprenticeship Act*

ECAO, IBEW CCO and OPTC put on a united front

The ECAO, International Brotherhood of Electrical Workers Construction Council of Ontario, and the Ontario Pipe Trades Council have launched a legal challenge to new sections of the *Ontario College of Trades and Apprenticeship Act*.

For the past 50 years, Ontario has required specific types of complex trade work—including electrical and pipe trades—to be completed only by individuals with a certificate of qualification in those trades. Under the 1964 *Apprenticeship and Tradesmen's Qualification Act*, no person in the province could “work or be employed in a certified trade unless [the person] holds a subsisting certificate of qualification in the certified trade.” The Act was amended in 1968 to also provide that no employer could employ any person in a certified trade “unless the person employed holds a subsisting certificate of qualification in the certified trade.”

The purpose of these rules was to ensure that only qualified persons perform

complex and dangerous skilled trade work and to promote careers in the skilled trades.

The compulsory certification requirements introduced in the 1960s were maintained in contemporary legislation as sections 2 and 4 in the 2009 *Ontario College of Trades and Apprenticeship Act* (OCTAA). Like the legislation before it, the purpose of the OCTAA is to continue to ensure the skilled trades as valuable professions and promote careers in them. Enforcement of compulsory certification was designated to College of Trades inspectors armed with a range of powers to ensure compliance, including to enter premises and examine documents.

In late 2016, however, the province enacted changes to the OCTAA that effectively authorize uncertified workers to engage in the practice of a compulsory trade in breach of sections 2 and 4 of the Act. Inspectors are now authorized to decline to issue a notice for a violation

of section 2 or 4 of the Act. The Ontario Labour Relations Board is also now authorized to eliminate a penalty for a violation of section 2 or 4 of the Act for any reason.

The ECAO, IBEW CCO and OPTC have launched a challenge to this overhaul of the compulsory trade system because it devalues certificates of qualification and the training and experience of skilled tradespeople, and undermines the market position of those who rely on certified tradespeople for the safe completion of restricted trade work.

The challenge was initiated in December of 2017, and Ontario Superior Court of Justice is expected to hear the case later this year.

The ECAO, IBEW CCO and OPTC are represented by Jonathan Lisus and Fahad Siddiqui of Lax O'Sullivan Lisus Gottlieb LLP. They can be reached at www.counsel-toronto.com.

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Tackling the Electrical Black Market



Well-designed health and safety programs promote a healthier, more productive workforce

By Normand Breton, Registrar and Director, Contractor Licensing, Electrical Safety Authority

From designer clothes to car parts to more unseemly products, the black market is an unregulated and potentially lethal place for consumers and businesses looking for a deal. When it comes to services like electrical work, a lack of expertise and certification puts everyone at great risk.

Statistics Canada has estimated the value of all underground activity in Canada at \$42.4 billion (April 2015) and the provincial government has estimated the impact in Ontario as \$15 billion in lost economic activity each year. This shouldn't come as much of a surprise, particularly for those working in licensed professions — those licensed in the electrical business are often tasked with cleaning up the aftermath of an underground transaction.

In the electrical industry, we know all electrical work that's done for hire — from small repairs to major installations — must be done by a Licensed Electrical Contractor and with the required electrical permit(s) from the Electrical Safety Authority (ESA). Any work completed by an unlicensed contractor is illegal and potentially unsafe. Getting it done by “a friend of a friend who knows someone who's cheap,” is never a good idea and potentially illegal.

As a regulator and the authority responsible for electrical safety in the province, ESA takes the underground market very seriously. Here are three

ways we are cracking down on unsafe, unlicensed electrical work:

Investigations

ESA hires authorized security investigators to investigate people doing illegal electrical work and assist with the process of charging and trying them in court.

They often start an investigation based on an anonymous tip, homeowner complaint or referral from ESA inspectors in the field.

A key part of the investigation is collecting enough evidence for a strong case, including interviews, online ads and social media activity. Catching the worker in the illegal act provides the strongest evidence needed to bring the worker to court.

Courts & Convictions

There have been at least 10 convictions related to hiring or permitting an unlicensed contractor to do electrical work in Ontario. The majority have involved general contractors that sub-contracted the work to an unlicensed individual.

In July 2017, an Ontario provincial court ruling reinforced the strong message to individuals who work outside the law across the province: putting public safety at risk will not be tolerated.



A contractor operating out of Milton was sentenced in a Burlington, Ontario, court to five days in jail and was ordered to pay \$50,000 in fines for doing electrical work illegally. The severity of the fines and jail time sends a clear message that electrical work in Ontario must only be done with an electrical contractor's license and in compliance with the Ontario Electrical Safety Code.

Also this year, a Mississauga-based business owner was convicted and ordered to pay \$18,750 for hiring an unlicensed worker to do electrical work. That worker unfortunately died on-the-job.

The most notable prior conviction in this category was in 2012. ThyssenKrupp Industrial Services was convicted for permitting an unlicensed contractor at one of their facilities and was ordered to pay \$20,000. They also agreed to make a \$50,000 donation to ESA for public safety education.

Targeting Online Ads

ESA receives hundreds of reports each year about illegal electrical work being conducted in Ontario, including reports involving contractors illegally advertising on Kijiji. Through websites like Kijiji, unlicensed contractors are able to offer their services to homeowners directly. These homeowners may not know the difference between licensed and unlicensed workers.

In 2016, ESA implemented a pilot program to help prevent those searching for electricians on Kijiji from using unlicensed workers. The pilot involved finding ads posted by unlicensed electrical contractors and conducting follow-up investigations, as well as awareness advertising to educate Ontarians of the requirement to hire a licensed electrical contractor. To date, ESA has posted 325 Kijiji ads which have received close to 4,000 views. Most importantly, 70 per cent of the

illegal Kijiji advertisements ESA identified have been removed.

But there is still much to be done. There are loopholes, such as unlicensed contractors reposting ads shortly after being targeted. However, as long as Kijiji and ESA continue to work together, more and more ads will be brought down faster. ESA has also partnered with the site's blog, Kijiji Central, to increase awareness of licensing requirements for both consumers and contractors.

Electrical safety in Ontario is paramount and we will continue to find ways to prevent unlicensed individuals from conducting electrical work that can put public safety at risk.

Normand Breton is Registrar and Director of Contractor Licensing at the Electrical Safety Authority (ESA). ESA is responsible for public electrical safety in Ontario. Part of ESA's role is to work together with Ontarians to help them understand the regulation requirements for the province.

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The Propriety of a Proper Invoice

By Dan Leduc LLP,
Norton Rose Fulbright



We are being overwhelmed with information relating to the amendments to the current *Construction Lien Act* which are now law. In that whirlwind of information, largely propagated by law firms, why don't we focus on things that can be done by electrical subcontractors?

One (of many) such items would be the notion of a "proper invoice." As part of the prompt payment regime to be instilled by the new legislation, the notion of a proper invoice is a starting point to prompt payment and the adjudication process. The definition of proper invoice in the proposed Ontario legislation includes the following:

Definition, "proper invoice":

6.1 In this Part,

"proper invoice" means a written bill or other request for payment for services or materials in respect of an improvement under a contract, if it contains the following information and, subject to subsection 6.2 (2), meets any other requirements that the contract specifies:

1. The contractor's name and address.
2. The date of the proper invoice and the period during which the services or materials were supplied.
3. Information identifying the authority, whether in the contract or otherwise, under which the services or materials were supplied.
4. A description, including quantity where appropriate, of the services or materials that were supplied.

5. The amount payable for the services or materials that were supplied, and the payment terms.
6. The name, title, telephone number and mailing address of the person to whom payment is to be sent.
7. Any other information that may be prescribed.

Those last words, "any other information that may be prescribed," refer to Regulations which have not been disclosed as of yet but would potentially include, likely, WSIB clearance certificates. I am unsure if a statutory declaration would be included in those requirements considering that it is not necessarily prescribed by other laws or regulations.

Conversely, the requirements under American Federal legislation are much more extensive as to what qualifies as a proper invoice. State legislation does not appear to be as extensive; take for example New York State Public Authorities Law § 2880 Prompt Payment which includes the following definition:

"Proper invoice" means a written request for a contract payment that is submitted by a contractor setting forth the description, price and quantity of goods, property, or services delivered or rendered, in such form and supported by such other substantiating documentation as the corporation may reasonably require.

As noted, for the proposed Ontario legislation however, the proper invoice is the starting point for prompt payment. Without a proper invoice there will be delays in payment and dispute resolution via the adjudication process.

Therefore as a subcontractor, my focus at the outset of a project would be to circulate a draft proper invoice to verify that my internal invoicing protocols now cover off the items identified above in the proposed definition of the Ontario proper invoice.

In fact, I might consider going to the extent of the American federal definition if it can assist with making sure that I am submitting proper invoices monthly rather than waiting for the new legislation to be declared law.

How about we get our invoicing "proper" now?



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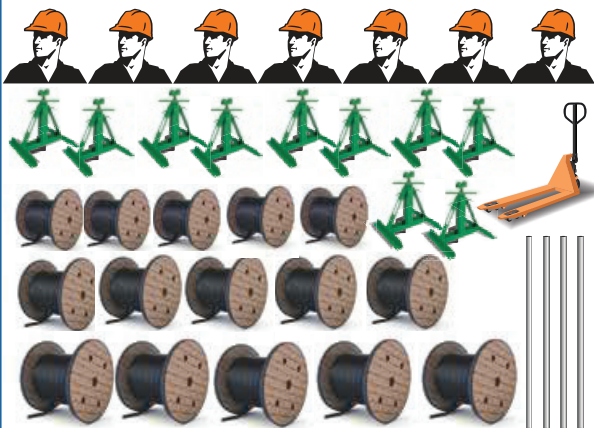


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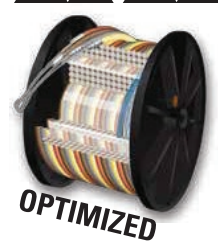


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What's the Current Status on Tax Reform Changes for Small Business Owners?

The recent tax changes proposed by the Liberal government saw an unprecedented groundswell of opposition. Small business owners, farmers and the medical profession collectively raised their voices in protest. Quietly introduced in July with little fanfare and an abbreviated consultation period, the changes were met with scrutiny and opposition.

By Phil Evenden, Integrity Wealth Management Inc.

National and local Chambers of Commerce, Industry Associations and professional advisors to small business quickly took action to raise awareness of the potentially destructive effects to estate and transition planning if these changes were to be passed.

An emotionally charged town hall meeting was held in Oakville, ON, just prior to the Oct. 2 deadline. Hundreds of business owners and incorporated professionals met with the Finance Minister to share their concerns as to how these changes would impact their business, family and legacies.

With over 21,000 submissions received during the consultation period, the federal government has reviewed their position on these reforms and revisions are slowly being announced.

I had the opportunity to speak with Trevor Parry of the TRP Strategy Group. Trevor is a colleague and resource for us and our clients and he provides authoritative tax guidance about the current status of the proposed changes. Here are some excerpts from his review:

"Last week we saw what I believe will be the first of several stages of government retreat from these proposals. It is my contention that given the profound opposition that these proposals have engendered, both within the Federal Liberal caucus and from many sectors of the Canadian economy, that little, if any of the proposals, will actually find their way into legislation. Even the revised proposals create such layers of complexity that they are largely unworkable, elevate the roll of a CRA auditor well

beyond their current capability and increase compliance costs exponentially for most Canadian economic enterprises."

Trevor outlined the proposal and revised positions in this manner:

Surplus Stripping

The proposals had called for restrictions on sale beyond simply spouse or children to include extended family members. It also placed the

power of determination of defining "arm's length" to a CRA auditor. The proposals also introduced a measure which would have eliminated the ability to implement a common post mortem strategy, commonly referred to as "pipeline." It would have made redemption strategies the only acceptable means of undertaking post mortem tax planning, threatened retroactivity and potentially exposed business owners (and their estates) to taxation rates in excess of 70%.

Mr. Morneau fully retreated from this proposal on Thursday of last week. There has been guidance provided by the Department of Finance that section 84.1 will now be substantively reformed to remove or reduce impediments to inter-family succession. The cancellation would restore traditional planning including

"pipeline" and estate freezes are still relevant and prudent planning options. Attacks on potential Capital Dividend Account (CDA) credits would also be terminated. The use of corporately owned life insurance is still a preferred planning method.

Whether this will be restricted to farm and fishing corporations, or be a general provision applying to all CCPC's remains to be seen. I am

With over 21,000 submissions received during the consultation period, the federal government has reviewed their position on these reforms and revisions are slowly being announced.

hopeful that the Department of Finance will actually survey the tax planning community for guidance on what is prudent and efficient.

Capital Gains

The proposals, both directly and through the Taxation of Split Income (TOSI) proposed a radical curtailment of the ability to claim the Lifetime Capital Gains Exemption (LCGE). The LCGE would have been restricted to individuals over the age of 18. It also would have eliminated the ability to claim the LCGE where shares are owned by a trust. The ability to income split, creditor protect corporately held assets and insurance and multiply the LCGE all require a family trust as a central element of any freeze transaction or other selected reorganization strategies. Mr. Morneau recently announced the withdrawal of this proposal, and was welcomed by the tax planning community.

Taxation of Split Income (TOSI)

These proposals wish to restrict the ability for a corporation to pay dividends to shareholders on the basis of employment or capital contribution. The Department of Finance wishes to expand the restrictions commonly known as "kiddie tax" rules to require a shareholder to justify, determined by the analysis of a CRA auditor, if the individual would be a prescribed individual subject to the TOSI rules, and hence subject to taxation at the highest marginal rate. The rules determining application of TOSI are based on employment (or past employment), risk assumed, or capital contribution to the company.

Mr. Morneau at this point is saying that the TOSI rules will be implemented effective January 1, 2018 and will be formally introduced in the next Federal Budget.

Passive Income

The central tenant of this proposal is that corporate tax rates and personal tax rates create an ability to defer tax on profits which can be in turn invested by a corporation. The initial proposals did not introduce draft legislation as that which accompanied the other proposals. Rather, possible remedies were suggested including cancellation of Refundable Dividend Tax on Hand, restriction on Capital Dividends or perhaps a refundable anti-deferral tax on corporate profits.

Mr. Morneau has announced a revision of the proposals, again not accompanied by any draft legislation. He now suggests that a corporation (or corporate group where companies are related) would be allowed to retain up to \$50,000 per year as a passive asset. This safe harbour provision is based notionally on a 5% return on \$1 million of profits. Anything in excess of the safe harbour provision would be taxed at an accelerated corporate rate, perhaps 70%. Also, the initial \$50,000 would still be taxed a very high corporate tax rate on passive income.

If this proposal were to be implemented, compliance and accounting costs would profoundly, if not exponentially, increase.

Although the revisions and elimination of some of the proposals is encouraging, a watchful eye and strong voice from the small business community is still needed to protect the income from and assets accumulated in private Canadian corporations; wealth that reflects years of hard work and dedication.

Contact your local MP to add your voice to the conversation.



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Regulator Involvement in Writing the Canadian Electrical Code

Guiding safe installations for more than 80 years

By Allison Drover, Manager Marketing, CSA Group

The Canadian Electrical Code, Part I, is an integral part of the Canadian Electrical Safety System — a system that works hard by design to keep electricians, consumers, and the public safe from harm.

With a history dating back to the early 20th century, the CE Code, Part I, is the original, authentic, Canadian-based safety standard developed to make electrical installations and maintenance safer. It is one of CSA Group's oldest and most respected standards largely because of the expertise and dedication of the people who write it. From the first edition of the CE Code, which was published in 1927, all the way up to the upcoming 24th edition which was due to publish January of 2018, the combined expertise of volunteer committee



members — from industry, utilities, regulators, consumers and other relevant stakeholders — has been its backbone. In particular, the contributions of regulators from across the country are critical.

In Canada, each province and territory has specific legislation governing electrical safety in its jurisdiction. This includes the adoption of codes and standards as well as appointing an authority to administer the legislation, referred to as the Authorities Having Jurisdiction (AHJ). Each province and territory also designates a representative, usually the chief electrical inspector or equivalent, to participate on the Canadian Electrical Code, Part I Committee.

“As the AHJ for electrical safety, regulatory involvement is critical to developing a model code designed for adoption across Canada,” says Tim Pope, Senior Project Manager for electrical standards at CSA Group. “Regulatory authorities are generalist experts who know the Code inside and out, and front to back. Regulatory authorities also keep an eye on new code proposals to flag those that are unenforceable, or that may conflict with existing legislation.”

Add the expertise of regulators with a meticulous standards development process and the result is a detailed and consistent document that is ready to be adopted into legislation within each province and territory, with minimum variation, from coast to coast. “The CE Code development process follows rigid procedures that adhere to strict consensus principles,” continues Pope, “while ensuring that even a single voice in opposition is given consideration by the full Committee.”

Aside from being adopted in the provinces and territories, the CE Code is also referenced by the Federal Canada Labour Code. This is all part of the electrical safety system in Canada. For more information on the Canadian Electrical Code, Part I, visit CSA Group's website at www.csagroup.org

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Labour Relations

Changes to legislation impacts Ontario employers

By Jodi Travers



There have been numerous changes to employment legislation over the last few months; changes that impact most employers in Ontario, including construction employers. With the passing of Bill 148, Bill 127 and Bill 177 came many new entitlements for Ontario workers and new responsibilities for Ontario employers. As Mark Lloyd mentioned in his President's Remarks, some of these changes went well-beyond the increase to Ontario's minimum wage that we were expecting.

Occupational Health and Safety Act (Bill 177)

- Individual fines quadrupled from \$25,000 to \$100,000
- Corporate fines tripled from \$500,000 to \$1,500,000
- Limitation period for charges now also includes either one year from the day the Inspector becomes aware of an alleged offence or to the date of occurrence.
- Obligation to report to the Ministry, "potential structural inadequacies" of a building, structure, or other part of a workplace that were identified (by JHSC, H&S rep, etc) if the employer does not own the workplace

Workplace Safety and Insurance Act (Bills 127 and 177)

- Bill 127 expanded the Act to provide benefits for Chronic Mental Stress (CMS) if predominantly caused by a substantial work-related stressor
- Time period for CMS claims was extended back to April 29, 2014

Employment Standards Act (Bill 148)

- Changes to numerous leave provisions, including personal emergency leave, pregnancy and parental leave, domestic/sexual violence leave
- Increases to minimum wage
- Expanded vacation entitlement

Those of you who work with collective agreements may presume you are exempt from most of the changes to the ESA. This is only true if your industry (i.e. construction) is exempt.

Generally, if a collective agreement provision provides a greater benefit than legislation, the collective agreement prevails. If legislation provides a greater benefit, and there is no language exempting the industry or stating that the collective agreement prevails, then the legislation prevails.

Our members have access to Labour Relations information once logged into the Member's Section of our website. There you will find a summary of all changes to the *Employment Standards Act*, as well as information related to the Principal Agreement, sample policies you can use in your workplace and other useful resources. If you are an ECAO member and do not have your member login information, please contact Cristina Pezzente at cpezzente@ecao.org.

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Greetings,

As the incoming CEO of Skills Ontario, I am thrilled to start leading the team to help further build the momentum that is already underway for our many skill development and career exploration programs, including the 2018 Skills Ontario Competition this May 7, 8, and 9 in the GTA.

Skills Ontario is a strong organization with a clear mission to educate and inspire tomorrow's workforce about the opportunities for skilled trades and technology careers in Ontario. I am very familiar with the important work of Skills Ontario, having served as a Board Member in the past, and then Board President from 2004 to 2006.

I know that ECAO also has a long history of supporting Skills Ontario, particularly as a Gold Partner, who also develops, arranges, builds, coordinates, and supplies the people power – including the

28 judges – that are required for the secondary and post-secondary Electrical Installations Contest at the Skills Ontario Competition.

Like ECAO, I've always had a strong interest in building skill development initiatives across the province, and I'm very honoured to take on the position of CEO of Skills Ontario and to be able to work with you further.

It is an amazing feeling to be able to offer my knowledge and appreciation of skilled trades and technologies, health and safety, and working with government and industry to Skills Ontario, a vital organization for the province. I look forward to working closely with you, the Skills Ontario stakeholders and investors, to strengthen and support the opportunities for the next generation of skilled trade and technology professionals in our province.

I'd love to hear from you, so don't hesitate to reach out.

Sincerely,

Ian Howcroft

CEO, Skills Ontario

ihowcroft@skillsontario.com

519-749-9899 x 229

Skills Ontario honours volunteer Wayne Lawrence with 2017 Glenn Beatty Award

Provided with permission from Skills Ontario

The recipient of this year's Glenn Beatty Award is Wayne Lawrence of ECAO/IBEW, who has volunteered and supported the Skills Ontario Competition for over 15 years. He started organizing materials for Local 353 and a few years later was fully immersed in their committee, helping to organize, complete and enhance an array of work that is required to showcase the Electrical Installation Competition, Elementary Day Workshops and at the ECAO/IBEW Apprenticeship booth. Thank you, Wayne, for your time, expertise, and dedication to supporting the Skills Ontario Competition and skill development opportunities for Ontario's youth.

Glenn Beatty was a participant in the CAD, CAM and CNC contests and a gold medal winner at the 1997 competition. He



then progressed to the Skills Canada National Competition hosted in Red Deer, Alberta, which was another gold medal performance for Glenn. Following his outstanding performance at the skills competitions, Glenn was hired by ATS (Automation Tooling Systems) in Cambridge, Ontario.

Grateful for the opportunity given to him and the impact it had on his life, Glenn returned to Skills Ontario in 1998 as a volunteer. Sadly, in January of 1999, we lost Glenn in a motor vehicle accident.

As a tribute to Glenn, Skills Ontario presents the Glenn Beatty Award annually to a volunteer or volunteers who embody the dedication and passion for Skills Ontario that Glenn demonstrated.



Burglary Prevention

Help stop building damage and property loss before they can happen

By Alex Callahan, Director, Client Strategy & Business Development

Burglary and theft prevention is a necessary part of your loss prevention program. The level of complexity will depend on the characteristics of your area and the theft attractiveness of your stock and equipment.

Whether a thief is a smash and grab artist or a professional, the resulting building damage and property loss can be significant. It is always better to avoid a burglary than deal with its after affects.

The following are some areas to consider when designing your burglary prevention program and will help minimize break-ins.

Building Design and Materials

An effective burglar protection program needs to consider the building design and how the various components of a building need to work together to prevent burglaries. The weakest points of all buildings are the doors and windows. These need to be protected.

When constructing a building, the burglary potential should be considered in the design and materials chosen. You should take into consideration the theft attractiveness of the contents. Limit the number of doors and windows. Entry points should be located in a manner that discourages burglary.

Building materials are a key component of burglary prevention. For example, pre-cast concrete walls offer considerably better protection than metal clad walls. The likelihood of a thief entering the building through a solid concrete wall is remote in comparison to a metal clad wall.

Doors

Doors are favourite access points for thieves as they can be easy to open. Some key things to consider include:

- All exterior doors should be provided with double cylinder deadbolt locks with at least a one-inch throw.
- Side and rear doors should be provided with supplemental protection such as an iron gate or iron bolts.
- Overhead doors should be secured with padlocks.
- Overhead door windows should be protected with metal bars or mesh.
- Outward swinging doors should have hinges with non-removable pins.
- Perimeter doors should be of substantial construction.
- Side and rear doors should be of solid-wood or steel construction and installed in reinforced steel frames.
- Hollow-core wood doors or panel doors should be replaced or be reinforced on the inside with sheet metal.

- Glass panels on side and rear doors should be replaced. All glass panel doors should be protected with burglar resistance film or metal bars.
- All doors should be illuminated from above and the light fixtures protected from breakage.

Note: Locking devices must comply with the local building code requirements and must be unlocked when the building is occupied as per the local legislation.

Windows

- Windows should be protected from the inside with metal bars attached to the frame.
- Burglar resistance or security film can be installed on the windows.

Exterior Protection

- Install exterior lighting to eliminate dark areas and discourage thieves.
- Eliminate plants or other hiding areas around doors and windows.
- Install fence compounds to protect open lots.

Burglar Alarms

Burglar alarms provide additional protection and complement the physical security of a building. Statistics show installing burglar alarm systems reduce the likelihood of a break-in by 67 per cent. For additional information, please see the Burglar Alarm System bulletin located on the Federated Insurance website at www.federated.ca.

At Federated Insurance, we believe Loss Prevention is a critical component of your Risk Management Program.

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Legalization of Recreational Cannabis May Put Workers and Employers at Risk

By Norm Keith

The pending legalization of recreational cannabis in July 2018, may put the safety of workers in the electrical contractor industry at risk. There have already been too many workers injured because another worker was under the influence of alcohol or drugs at work. With the legalization of recreational cannabis, social acceptance and use will likely grow. This change in public policy will also put employers at risk if they do not manage the increased workplace hazards associated with impairment by cannabis and hashish. This article will briefly review the law with respect to employers' duties and responsibilities to respond to the greater social acceptance and legalization of recreational cannabis.

The Justin Trudeau Liberals campaigned on the promise of legalizing cannabis, also known as marijuana, for recreational use in the 2015 election. This policy was apparently a big vote-getter, especially

among young, first time voters. Young voter turnout was higher than ever, according to election Canada data, in the 2015 election. Many experts have suggested that the legalization of cannabis helped give the Liberal government a majority in the House of Commons.

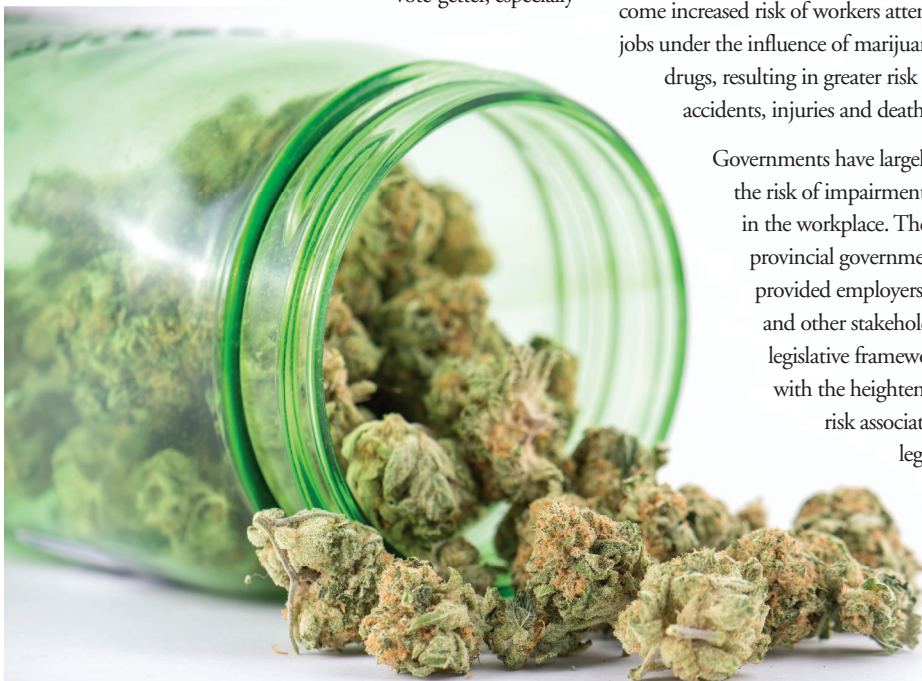
Now, for the first time in Canadian history, the Federal government, through the *Cannabis Act*, will not only decriminalize the possession and use of marijuana, but also formally legalize the psychoactive drug for recreational use in Canada. This policy, political, legal and social change comes with some risk for employers who have a high legal duty to provide a safe workplace for workers. Studies in the U.S. in states where recreational marijuana has been legalized, have seen increases in motor vehicle accidents, injuries and fatalities. With increased social acceptance and use, especially among young workers, will come increased risk of workers attending their jobs under the influence of marijuana and other drugs, resulting in greater risk of workplace accidents, injuries and death.

Governments have largely ignored the risk of impairment by cannabis in the workplace. The federal and provincial governments have not provided employers, workers, and other stakeholders with a legislative framework to deal with the heightened safety risk associated with the legalization of



recreational marijuana. Lobbying efforts by a number of employers' associations, both federally and provincially, have been unsuccessful in obtaining some sort of base-line legislative framework that would place some responsibility on workers not to attend work unfit, due to the use of cannabis or other drugs. Therefore, federal and provincial governments essentially left it to employers, unions, and the courts to deal with this heightened workplace risk.

One stark example of the seriousness of the legal risk for employers when workers show up for work in a dangerous workplace under the influence of cannabis or others drugs was the terrible tragedy of the Metron Construction case. In that case, where four workers died when scaffold platforms failed on Christmas Eve, 2009, the corporation was charged with criminal negligence causing death. The Court of Appeal for Ontario, in increasing the monetary penalty for the corporation from \$200,000 to \$750,000, cited the "failure of the employer to prevent the workers from using drugs at the workplace." This was the same Court of Appeal



that decades earlier in the Entrop case, started a line of cases that prohibited employers from conducting random alcohol or drug testing to deter workers from using cannabis or other substances, in the workplace, which could adversely affect their performance and the safety compliance in the workplace.

This line of cases culminated with the Irving Pulp and Paper case which overturned the New Brunswick Court of Appeal's decision allowing random alcohol testing for workers in safety sensitive positions in a dangerous workplace; a pulp and paper mill. Although the Supreme Court permitted "reasonable cause" and "post-incident" testing, it overturned the appeal court decision and prohibited random alcohol testing, even though there was a clear criminal standard for impairment for any person driving a motor vehicle that had a blood alcohol content of 0.08 milligrams per 100 milligrams. In short, with politicians and policy makers avoiding the safety implications of legalizing cannabis, and the courts to date having rejected random alcohol or drug testing to act as a deterrent, employers are in a very awkward legal position with the pending legalization of recreational marijuana.

A lower court decision involving an attempt by the Amalgamated Transit Union to obtain an injunction against the Toronto Transit Commission to prevent random alcohol and drug testing, was rendered by a well-respected trial judge, Mr. Justice Frank Morocco. His Honour held that the public, as well as worker, interests in having TTC transit employees sober and fit for work, outweighed the potential contraventions of privacy and dignity rights of the unionized workers for the TTC.

The law remains unclear on whether random testing is legal, and if so, when. The failure of political leadership in Canada is a stark contrast to the United States, Europe and other jurisdictions where substance abuse in the workplace is prevented by random testing.

What can and should employers in the electrical contractor industry in Ontario do in advance of the legalization of recreational marijuana? The following five steps may be considered by employers in the electrical contractor industry, both to protect workers and to reduce legal risk:

1. Establish a Fitness for Duty Policy that prohibits workers from attending at work under the influence of marijuana and other drugs;

2. Arrange a third party provider for substance abuse testing, based on "reasonable cause" and "significant incident" criteria;
3. Provide comprehensive training to all workers on the Fitness for Duty Policy;
4. Encourage self-reporting by workers who have substance abuse dependencies/addiction problems and direct them to union supported employee assistance programs;
5. Exercise appropriate discipline, up to and including discharge, for workers who violate the Fitness for Duty Policy.

The development of a Fitness for Duty Policy – the hallmark of the successful TTC decision – focuses on the legal obligation of workers to present themselves fit for work, and without the influence of substances that may compromise their safety as well as workers and members of the public. Further, even in an age of changing values, legalization of recreational marijuana, and greater social acceptance, employers and their workers must take the lead when establishing a culture of safety and sobriety at work. The obvious failure of governments to address the issue and prohibit workers from attending work under the influence of marijuana or other substances that could impair them, put their safety at risk, as well as cause accidents, injuries and death, is appalling. However, employers will still be held legally responsible by the Ministry of Labour and the courts for ensuring a healthy and safe workplace.

The author is working with the Electrical Contractors' Association of Ontario to develop a Fitness for Duty Policy that will be industry specific, tailored to the needs of electrical contractors, and provide a rollout program to "train the trainer" before the legalization of recreational marijuana takes place in July 2018.

These new, looming realities for employers and management must be taken seriously. The need for an effective health and safety management system is more important than ever to both prevent accidents and be able to establish a due diligence defence.

For more information on how to assess the current quality of your organizations' health and safety program or to deal with a Ministry of Labour investigation, feel free to contact Norm Keith at 416-868-7824 or nkeith@fasken.com, the first call is always free.

Norm Keith, LL.M., CRSP, is a partner at Fasken.

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