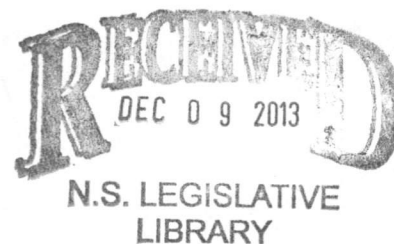


LAW AMENDMENTS COMMITTEE

Red Room, Province House

Monday, December 9, 2013

5:00 p.m.



**Bill #5 - Importation of Hydraulic Fracturing Wastewater Prohibition Act**  
*(deferred from previous meeting)*

**Bill #9 - Accountability in Economic Development Assistance Act**

5:00 p.m.                      1.    Kirk Dexter

**Bill #10 - Maritime Link Act (amended)**

5:00 p.m.                      1.    Kirk Dexter

**Bill #17 - Executive Council Act (amended) and Public Service Act (amended)**

5:00 p.m.                      1.    Kirk Dexter

**Bill #14 - Justices of the Peace Act (amended) and Provincial Court Act (amended)**

5:00 p.m.                      1.    Peter Rogers  
*Nova Scotia Presiding Justices of the Peace Association*

**Bill #15 - February Holiday Act**

5:00 p.m.                      1.    Luc Erjavec  
*Canadian Restaurant and Food Services Association*

2.    Jim Cormier  
*Retail Business Council of Canada*

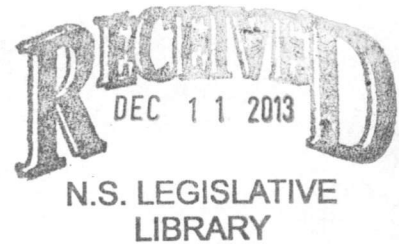
3.    Kirk Dexter

**Bill #12 - Occupational Health and Safety Act (amended)**  
*(to be deferred)*

LAW AMENDMENTS COMMITTEE

Red Room, Province House

Tuesday December 10, 2013



**Bill #14 - Justices of the Peace Act (amended) and Provincial Court Act (amended)**

*Deferred from previous meeting*

**Bill #15 - February Holiday Act**

*Deferred from previous meeting*

**Bill #20 - House of Assembly Act (amended)**

*No representation*

**Bill #12 - Occupational Health and Safety Act (amended)**

2:30 p.m.

1. Ian Johnson, Servicing Co-ordinator/Policy Analyst  
Paul Cormier, Occupational Health & Safety Officer  
*NSGEU*

**Bill #19 - Trade Union Act (amended)**

2:30 p.m.

1. Kieren Thompson, Executive Director  
Lori Smith, Employee Relations Officer  
Robin Levy, President NSGEU Laing House Local 57  
*NSGEU*
2. Michael Kydd, President  
Barry North, RCS Construction, Vice chair  
*Merit Nova Scotia*
3. Peter McLellan QC  
*Stewart McKelvey*
4. Kyle Buott, Executive Member  
Rick Clarke, Executive Member  
Larry Wark, Executive Member  
*Nova Scotia Federation of Labour*
5. Gary Vermeir  
*Local 849 of the IATSE*



Notes for a Submission

By

Ian Johnson

Servicing Coordinator/Policy Analyst

Nova Scotia Government and General Employees Union

and

Paul Cormier

Occupational Health and Safety Officer

Nova Scotia Government and General Employees Union

To the

Law Amendments Committee

On

Bill 12

Amendments to the Occupational Health and Safety Act

December 10, 2013

## Introduction

Thank you, Madam Chairperson and members of the Committee for this opportunity to speak to you about Bill 12 - Amendments to the *Occupational Health and Safety Act*. We are here on behalf of our President Joan Jessome. My name is Ian Johnson, and I am a Servicing Coordinator/Policy Analyst for NSGEU, and with me is Paul Cormier, who recently started as our Occupational Health and Safety Officer. He has extensive experience both as an occupational health and safety officer with the Department of Labour and Advanced Education, and as a safety specialist with the private sector.

As you may know, the Nova Scotia Government and General Employees Union (or NSGEU) is the largest union in the province representing more than 30,000 workers across the public sector in the provincial government, corrections, health care, public schools, community colleges, universities, municipalities, and community organizations. Throughout our fifty-year history, occupational health and safety has consistently been a major issue for us. We have had representation on the Minister of Labour and Advanced Education's

Occupational Health and Safety Advisory Council, the Workers' Compensation Board, and various committees and working groups. We have also had a permanent Occupational Health and Safety Officer since 2005.

## **Overall Questions and Concerns**

We are not here to oppose Bill 12, but to raise some important questions and concerns. We appreciate this initiative being taken by the government to improve the administrative penalty system, especially in making more resources available for education.

At the same time, we think it is important to remember that no discussion of occupational health and safety, even for Bill 12, is complete in this province without remembering the Westray mining disaster of May 9, 1992. There was and still is, of course, tremendous personal loss and suffering associated with this tragedy, but also, important policy and legislative directions. These include a new Act, new regulations, major changes in the Department of Labour and the Occupational Health and Safety Division. The overall importance of the aftermath of this tragedy was set by the then

Minister of Transportation and Public Works when in accepting the Inquiry Report, said in December 1997: "This government (and presumably, future governments will do whatever it takes to make our province a safer place to earn a living and raise a family. We pledge to do our best so this type of tragedy doesn't happen again. People should never have to choose between a pay cheque and their lives".

So the overarching question for us today still is, are we doing enough to prevent another Westray? Could it happen again. As Mr. Dunn (the PC Labour and Advanced Critic) observed during Second Reading Debate, we already have had 28 workplace-related fatalities this year including the recent falls of two young workers at the same Clayton Park work site, one of which resulted in an unnecessary fatality.

So, with this broad perspective, we want to know and we think Committee members should also ask: "How will changing the administrative penalty system help with occupational health and safety in Nova Scotia?"

In our view, we have several, more specific questions arising from the provisions of Bill 12 and the level of detail to be spelled out in the regulations next year:

- How will more resources be made available to focus on repeat offenders and more serious cases?
- How will implementing a graduated system of fees encourage employers take more seriously occupational health and safety and the risks in their workplaces?
- How much additional resources be made available for education and what kinds of educational programs or initiatives will be initiated?

### **Potential for Interference in the Work of OH&S Officers**

A major concern we have about Bill 12 is found in Clause 3 of the Bill as part of the changes to the appeal system. This is about the role of the Executive Director in relation to the actions of the Occupational Health and Safety Officer.

My colleague will outline our concerns with Clause 5.

## **Proposed Amendment**

In light of these concerns, we and other parties have proposed amendments to Clause 5 of Bill 12, Subsection 67 (2). Our amendment was aimed at having all the relevant documentation reviewed and consultation with the relevant officer.

We are pleased to see the Department's amendment, and we are also pleased that the Department has committed to ensuring the appropriate regulations will be developed in consultation with the officers. In other words, we support the overall thrust of the amendments.

For us, the intent of our amendments was not to open the door to widespread interference in the work of the officers, and, at the same time, to prevent relatively minor issues of concern going forward as appeals to the Labour Board.



## **Outstanding Regulations**

Finally, I want to speak briefly to another major gap not addressed by Bill 12, that is, the failure to finalize and proclaim some outstanding regulations that were initiated after the Westray tragedy and never brought into force.

These are two new regulations which were originally requested by then Department of Labour in the aftermath of the Westray tragedy. They were:

- Regulations Respecting Joint Occupational Health and Safety Committee including mandatory training; and
- Indoor Air Quality Regulations that covered ventilation standards, thermal conditions, design and documentation, upgrading of existing buildings, maintenance and operation, control of exposure to airborne hazardous substances, communication, and complaint procedures and investigations.

Both sets of regulations were developed by joint labour-management working groups, of which I was on the Indoor Air Quality Working

Group, and included public consultation, In addition, both were completed in the mid-1990s, but were never finalized and proclaimed after all that work.

NSGEU has been pressing for their coming into effect ever since. We thought we were closer about a year ago to finally getting mandatory Joint Committee training, but that also seems to be on hold.

We ask for your support and assistance to help get these outstanding regulations into force as soon as possible with some updating, of course.

## Conclusion

We welcome the efforts to improve the administrative penalty system, but we remind you of our collective obligation since the Westray tragedy to do all we can to prevent any further such tragedies. The number of workplace fatalities should cause everyone to pause and reflect.

In light of the new directions being pursued since that tragedy, we ask that your Committee consider an amendment to Clause 5 of the Bill to ensure there is not interference in the work of the occupational health and safety officers , but at the same time, a minimal number of minor issues being taken on appeal to the Labour Board.

We ask that you support the finalizing and proclaiming of two long standing draft occupational health and safety regulations, namely, the Joint Committees regulations and the Indoor Air Quality Regulations.

We welcome your comments and questions.

CARRIED

**Bill #12**  
**Occupational Health and Safety Act (amended)**

CHANGE RECOMMENDED TO THE LAW AMENDMENTS COMMITTEE  
BY THE MINISTER OF LABOUR AND ADVANCED EDUCATION

**PAGE 2, Clause 5, proposed subclause 67(2)(b)** - add "after first consulting with the officer"  
after "officer".

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