

Legislative Change: A Primer on Stop Work Orders

Changes to the *Workers Compensation Act*

Bill 9 received Royal Assent on May 14 and contains a number of changes to Part 3 of the *Workers Compensation Act* (the Act). Some of the changes are effective May 14 while others will follow later in the year or in 2016. Accordingly, four amendments to the Act are now in effect. These are:

- Expanded stop work order powers
- Changes to employer incident investigations
- Expanded injunction powers
- Changes to penalty due diligence

Here's a summary of the changes to stop work orders:

1. Overview of Changes to Stop Work Orders

There are two major changes to stop work orders.

First, the threshold for being able to issue a stop work order has changed. Changes will soon provide that WorkSafeBC may consider a stop work order in two circumstances:

1. When there are reasonable grounds to believe there is a high risk of serious injury, serious illness, or death
- or
2. When an employer fails to comply with the same order twice within a year and there are reasonable grounds to believe that there is a foreseeable risk of serious injury, serious illness, or death.

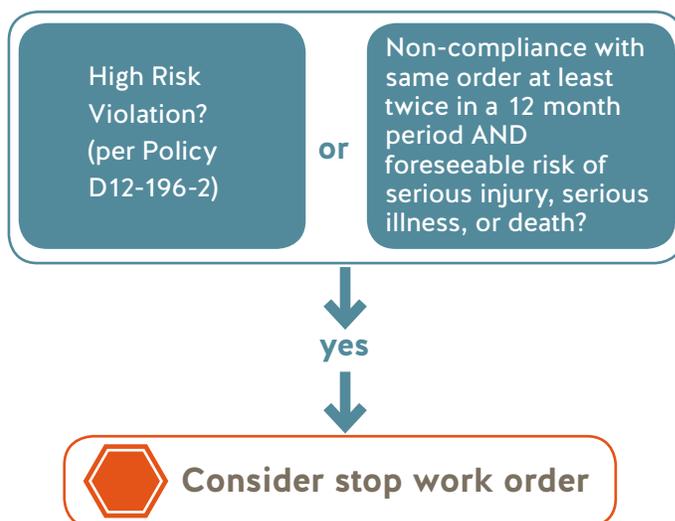
Second, the potential scope of the stop work order is being changed.

A stop work order may also be made applicable to other or all workplaces of an employer (a “stop operations order”) if there are reasonable grounds to believe that the same or similar unsafe working or workplace conditions exist at the other workplaces.

2. Issuing the Stop Work Order

The threshold for the application of a stop work order is being changed from ‘immediate risk’ to ‘high risk’ of serious injury, serious illness or death. Consideration of “high risk” should be made with reference to Prevention Policy D12-196-2.

In cases of repeat non-compliance, the threshold is lower. If there is a ‘foreseeable risk’ of serious injury, serious illness, or death, you can consider a stop work order.



When to Issue a Stop Work Order

Stop work orders will be considered when the employer is unable to quickly remedy the issues of concern, and other measures are insufficient to protect workers in that workplace.

Scope of a Stop Work Order

The scope of the stop work order must be sufficient to ensure that the employer halts the work that poses a risk to workers. It should not extend to work or other parts of the workplace where the risk underlying the stop work order is not evident, and the work is being done in a safe manner.

3. “Stop Operations” Order

WorkSafeBC may stop work or prohibit work from starting at other workplaces or parts of those workplaces of the same employer who was issued a stop work order. In order to do this, there must be reasonable grounds for believing that the same or similar unsafe working or workplace conditions exist or would exist at the other workplaces. WorkSafeBC will consider the following in relation to the Act for a stop operations order:

a) Same employer

The employer must be the same employer at each workplace where the stop work order or prohibition from starting work will take effect. In multiple employer workplaces, WorkSafeBC must ensure that the stop work order applies only to the same employer or those parts of the workplace where the employer has responsibility for unsafe working or workplace conditions.

b) Same or similar unsafe working or workplace conditions

There must be reasonable grounds to believe that unsafe working or workplace conditions are the same or similar at other workplaces in respect

to the stop work order made on the employer. WorkSafeBC will consider the following factors:

- Whether the employer performs substantially the same or similar work at other workplaces
- Whether the employer utilizes the same or similar work practices or equipment at other workplaces

WorkSafeBC will also consider these same factors when considering a stop work order to prohibit work from starting at another workplace where the employer will have responsibility for unsafe working or workplace conditions that would exist if work were to begin.

Approval to Issue a Stop Operations Order

Prior approval will be required in order for an officer to issue a stop operations order to an employer.

4. Duration/Cancellation of Stop Work/Stop Operations Order

Duration of a Stop Work Order

There is no change to current practice; stop work orders automatically expire unless they're confirmed in writing within 72 hours of the initial order to stop work being issued.

Cancelling Stop Work Orders

In order to cancel a multiple-workplace stop work order, or a stop work order prohibiting work from starting at another workplace, the employer must demonstrate that they have remedied the unsafe working or workplace conditions at all workplaces to which the stop work order applies.

The following graphic illustrates the application of the new stop work provisions.

High Risk Violation?
(per Policy D12-196-2)

or

Non-compliance with same order at least
twice in a 12 month period AND foreseeable
risk of serious injury, serious illness, or death?



Consider stop work order



Same employer where there are same or
similar unsafe conditions at other workplaces?



Approval to issue stop operations order?



Consider stop operations order