

New Age Restrictions For Young Workers In “Hazardous” Industries In British Columbia



Changes are coming on January 1, 2023, affecting BC employment standards law respecting young workers performing hazardous work. As discussed in our spring 2019 [blog article](#), the BC NDP government introduced legislation over two years ago with the goal to “better protect children and youth from dangerous work” (Ministry of Labour). An Order in Council approved this week (October 12, 2022), serves to bring that legislation into force in the new year. The Order also specifies particulars of the amendments, such as the minimum age for specific types of hazardous work, and transitional provisions covering children who have already been hired to perform hazardous work.

In October 2021 the [Employment Standards Act](#) was amended to permit an employer to employ a child under 14 years of age with the permission of the Director of Employment Standards; before that, permission was only needed if the child was under 12 years of age. An employer can employ a person who is 14 or 15 years of age to perform “light work” without the director’s permission, but with the written consent of the child’s parent or guardian. “Light work” is extensively defined in section 45.22 of the *Employment Standards Regulation* (the “Regulation”) and involves tasks such as administrative work, customer service (groceries, retail), housekeeping (child care, laundry, cleaning) (note: this is not an exhaustive list). Section 45.23 specifies prescribed occupations that are classified as “light work” such as cashiers, golf caddies, and lifeguards, amongst others. Section 45.24 lists work and occupations that are not “light work” such as repairing machinery, entering construction sites, lifting heavy items, working in a unit designed to retain an oxygen-deficient or toxic atmosphere, and entering a walk-in freezer or cooler other than to place or retrieve an item. As such, children between 14 and 15 years of age generally cannot perform work listed in section 45.24 of the Regulation.

Permission from the Director of Employment Standards is required for children who are 14 or 15 years of age, to perform work other than “light work”; if permission is granted, the director may set conditions of employment for the child, which must be complied with by the employer.

Notably, there is an exception to the requirement of needing the permission of the Director of Employment Standards for certain work for children aged 12 to 16. So long as the work is not on the list of work that is not “light work” (section 45.24 of the Regulation), and the child is either: (a) employed by an immediate family member who is a controlling shareholder, sole proprietor or partner of the business or farm; or

(b) employed in relation to a sports or recreational activity for children less than 16 years of age, as a camp assistant, assistant coach, referee or umpire, then the permission of the director is not required.

NEW AMENDMENTS

Effective January 1, 2023, there will be a minimum age for hazardous work, and the Regulation will outline what constitutes a “hazardous industry” and “hazardous work” for children and youth. Hazardous work will be split into two categories: (1) work for youth aged 16 and older; and (2) work for youth aged 18 and older.

A BC Ministry of Labour backgrounder sets out the types of work that can be performed by young workers within these two age categories:

A MINIMUM AGE OF 16 TO UNDERTAKE THE FOLLOWING ACTIVITIES:

- construction;
- silviculture;
- forest firefighting; and
- working from heights that require fall protection.

A MINIMUM AGE OF 18 TO UNDERTAKE THE FOLLOWING ACTIVITIES:

- tree falling and logging;
- using a chainsaw;
- work in a production process at a pulp, paper, saw, shake or shingle mill;
- work in a production process at a foundry, metal processing or metal fabrication operation, refinery or smelter;
- powerline construction or maintenance where an electrical hazard exists;
- oil or gas field servicing and drilling;
- work with dangerous equipment in fish, meat or poultry processing facilities;
- silica process/exposure to silica dust;
- work in which a worker is or may be exposed to potentially harmful levels of asbestos;
- exposure to harmful levels of radiation;
- working in a confined space or underground workings; and
- work requiring a respirator.

The amendments will also remove the following examples of “light work” from the Regulation: working in a unit designed to retain an oxygen-deficient or toxic atmosphere, and entering a walk-in freezer or cooler, for purposes other than to place or retrieve an item.

A transitional period has been added so that the changes regarding hazardous work do not apply to children if all of the following circumstances apply:

1. the child was hired before January 1, 2023;
2. the child’s positions and duties have not changed since January 1, 2023; and
3. the child will be 16 or 18 years of age by April 1, 2023, for their respective activity.

All other parts of the current framework are maintained.

by [Sarah Richmond](#) and [Clinton Tang](#)
Alexander Holburn Beaudin + Lang LLP