

# A New Era in Provincial Enforcement

November 1, 2007

Goodbye regulatory silos. Inspectors from different ministries can now share their observations and findings about your organization with each other.

On January 17, 2008, the *Regulatory Modernization Act, 2007* (the "Act") came into effect. While the name of the Act may sound innocuous, its impact could have far-reaching implications for many Ontario employers.

## **Ministries working together**

The Act provides an integrated approach to enforcing provincial laws and regulations across Ontario government Ministries that carry out enforcement activities. Here are the key provisions of the Act that could have an impact on your organization if it is subject to provincial inspections, audits, or investigations.

### ***Information sharing between ministries***

An inspector who collects information about your organization in the course of their duties under one provincial law or regulation can now make observations that are "likely to be relevant" to enforcement or administration under another law or regulation. These observations can then be shared with other ministries or enforcement branches.

In addition, some inspectors may be specifically authorized to collect information on behalf of two or more ministries. For example, the Ministry of Labour may authorize Ministry of the Environment inspectors to collect certain workplace safety information during the course of an *Environmental Protection Act* inspection.

### ***Public information disclosure***

The Act contains specific provisions for publicly disclosing information about an organization and its level of compliance with provincial legislation. This includes information in the possession of provincial officials before the Act took effect on January 17, 2008. This potential for public disclosure is designed to act as an added deterrent to noncompliance.

### ***Previous convictions a factor in sentencing***

If you are convicted under the provisions of a provincial law, any previous convictions you may have under other provincial laws even those that occurred before January 17, 2008 can be factored into sentencing. In fact, if a prosecutor introduces a previous conviction under another provincial law during sentencing submissions, the court must either impose a more severe penalty or give reasons as to why a more severe penalty isn't justified.

## **How you can prepare**

The *Regulatory Modernization Act, 2006* expands the potential scope of inspection your organization may be subject to, increases the chance that you'll face a full or partial inspection you are not prepared for, and increases the potential penalties you could face if you are subject to multiple convictions under provincial laws.

With the Act now in force, here are a few steps you can take to manage any negative impact that it may have on your organization.

**Reinforce a culture of compliance:** This is an excellent time to review the legislation your organization is subject to and the steps needed to ensure compliance on an ongoing basis. Workplaces that have a good track record of compliance and show a willingness to maintain a culture of compliance are less likely to face extensive monitoring by provincial regulators.

**Treat all inspections as multi-ministry.** When an inspection does take place, assume that the inspector may be examining any number of potential areas for compliance, not just their particular area of expertise. Such an assumption may prompt you to examine and correct potential areas of non-compliance in advance of the inspection occurring.

**Consider a single point of contact for regulatory issues.** If you haven't already designated an individual, you may want to assign a single point of contact for all provincial regulatory issues. This can simplify communication between your organization and the government and ensure that one person has an integrated view of the compliance landscape.

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