
LAL Discussion Notes

Prepared for the CEC

**Suggested action to propose a statutory
periodic, recurring schedule to review the
Workplace Safety and Insurance Act, 1997,
S.O. 1997, c. 16, Sched. (WSIA)**

November 27, 2024

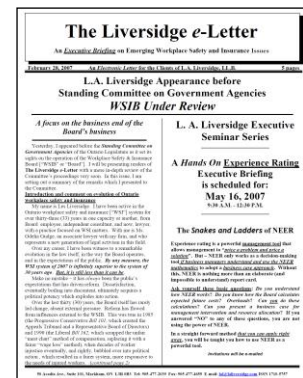
LAL Discussion Notes: Periodic Review of WSIA

A. Background & Executive Summary

1. This is a suggestion I began making in 2007 during my presentation to the **Standing Committee on Government Agencies** on February 27, 2007.
2. Over the years, I have continued to believe that a periodic review of the *Workplace Safety and Insurance Act* (WSIA) and WSIB administration should be implemented.
3. In 2007, I proposed a routine five-year large-scale external review reporting directly to the Ontario Legislature.
4. Over the years, I have followed other provinces that have such periodic reviews as a requirement in their respective legislation.
5. It may now be time to advance this proposal to the Ontario government.

B. What LAL is suggesting and why

1. On February 27, 2007 I proposed to the **Standing Committee on Government Agencies**, among several other recommendations, a routine five-year large scale external review of the WSIB legislation and system, reporting directly to the Ontario Legislature.
2. I noted then and remain of the opinion that such a review would allow for a perpetual opportunity to address statutory and administrative shortcomings. This simple innovation would ensure that that workers' compensation reform becomes routine, less partisan, and considered absent a crisis of confidence, while still ensuring political oversight. This would enhance stakeholder participation and move the critic from detractor to partner.
3. I wrote of my presentation to the Standing Committee on Government Agencies in my [February 28, 2007 edition of The Liversidge Letter](#).
4. A link to the Hansard is [here](#) (starting at page A-508).
5. In light of the current administration's reduced outreach to stakeholders, withdrawal of publicly available financial information and questionable funding choices, as well as the lack of overall engagement with employer stakeholders, I think it is now time to



propose a statutory five-year review be incorporated into the WSIA.

6. Excerpt from LAL February 27, 2007 presentation to the Standing Committee on Government Agencies (at Hansard p. A-510:

I'd like to take just one or two minutes and look at this problem from a larger perspective, the longer-term picture of workplace safety and insurance reform. At its core, although it's called the workplace safety insurance system, this program is not really an insurance contract; it is really, at its heart, a social contract between capital and labour, and insurance is a tool that really promotes that contract. **But essential to this contract is a continued requirement and a continued perception of system fairness for both groups, management and labour. If three decades of workplace safety and insurance reform has established two constant truths, they are these: (1) The loss of confidence of a core constituency will spark a petition for reform, and (2) the board is unable, in the long term, to maintain constituent confidence, so reform is inevitable. But it's neither smooth nor incremental; it is often divisive and tumultuous. Change is massive or nonexistent; it's feast or famine.**

There's a better way. A conduit for incremental change is required, and **I propose a routine five-year large-scale external review reporting directly to the Ontario Legislature.** This would allow for a perpetual opportunity to address statutory and administrative shortcomings. This simple innovation ensures that WSIB reform becomes routine, less partisan, and considered absent a crisis of confidence, while still ensuring political oversight. This would enhance stakeholder participation and move the critic from detractor to partner.

7. I propose the CEC write to the Minister of Labour, Immigration, Training and Skills Development to advance the request.

C. Canadian provinces that have statutory reviews

1. Of the eight provinces I canvassed (Newfoundland, PEI, Nova Scotia, New Brunswick, Manitoba, Saskatchewan, Alberta and British Columbia) five of them have a legislative requirement for a review on a specific periodic timeframe:

Newfoundland (s. 148)¹: A review is required every 5 years. The [most recent review was completed in 2019](#). Past reviews were completed in 2012, 2005, 2000, 1996, and 1990.

Nova Scotia (s. 161): A review is required every 5 years. The most recent [review report was released in August 2024](#). The most recent review prior was in 2002.

Manitoba (s.115): A review is required every 10 years. The most recent [review of 2016/2017 was released in December 2017](#). The most recent review prior was February, 2005.

Saskatchewan (s.162): A review is required every 5 years (began in 2019). The most recent review was completed in 2022 (here is a link to the [Saskatchewan webpage](#) which has the PDF of the report).

¹ The sections of the act noted are for each respective province's workers' compensation legislation.

Alberta (s.159): A review is required every 10 years. The review timeline set in legislation was originally 5 years (in 2017) and changed to a 10-year cycle in 2021). [The last review was in June 2017](#) and a review had not been done in more than 15 years.

2. The legislation of these provinces typically outlines what the scope of the review will include. For example, in the case of the Nova Scotia legislation, the review must include all matters concerning the Act, the regulations, the administration of the Act and other matters that the Minister may refer to the committee (s. 161(1)). The legislation also sets out the timeline by which a review must take place, what the composition of the committee formed to complete the review must include (typically from all stakeholder groups, employer, worker and public interest) and how and/or to whom the report must be reported to.
3. These reviews allow for ongoing changes and development to the respective workplace safety and insurance legislation and its administration and ensures a proactive process instead of waiting for an issue to arise and then responding.
4. While British Columbia does not have mandatory review in its statute, it does allow for the Minister to appoint a committee to conduct a review of all or part of the OHS provisions and regulations and to report to the minister ([s.15, Workers Compensation Act \[RSBC 2019\] CHAPTER 1](#)). In that section of the Act, the legislation advises at s.15(2) “*A review under this section must include a process of consultations with representatives of employers, workers and other persons affected by the OHS provisions and the regulations.*”

D. LAL suggestion for review and discussion

1. I propose that the CEC write to the Minister of Labour, Immigration, Training and Skills Development to propose that the WSIA be amended to include a requirement that a review of the WSIA and the WSIB be facilitated on a set schedule.
2. I suggest the CEC provide precise wording for such legislation, using the legislative wording similar to that of the other five provinces that have this legislation and incorporates the need for such a review to involve stakeholder feedback from all stakeholder groups (as the BC legalisation does with respect to review of their OHS Act).
3. I suggest the CEC discuss this at the next scheduled meeting and, upon instruction I will draft correspondence to the Minister.

L.A. Liversidge
November 27, 2024