

PROVINCE OF BRITISH COLUMBIA

ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No. 512

, Approved and Ordered October 11, 2022



Lieutenant Governor

Executive Council Chambers, Victoria

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that, effective January 1, 2023,

- (a) sections 7, 34 (c) and 35 (a) of the *Employment Standards Amendment Act, 2019*, S.B.C. 2019, c. 27, are brought into force, and
- (b) the Employment Standards Regulation, B.C. Reg. 396/95, is amended as set out in the attached Schedule.

DEPOSITED

October 11, 2022

B.C. REG. **200/2022**



Minister of Labour



Presiding Member of the Executive Council

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section: *Employment Standards Act*, R.S.B.C. 1996, c. 113, s. 127;
Employment Standards Amendment Act, 2019, S.B.C. 2019, c. 27, s. 44

Other: O.C. 1155/95

R20607337

SCHEDULE

- 1 *Section 45.24 (d) and (e) of Employment Standards Regulation, B.C. Reg. 396/95, is repealed.*
- 2 *The following Division is added to Part 7.1:*

Division 5 – Hazardous Work

Prescribed hazardous work

45.25 (1) In this section:

- “**confined space**” has the same meaning as in section 9.1 of the Occupational Health and Safety Regulation;
- “**fall protection system**” has the same meaning as in section 11.1 of the Occupational Health and Safety Regulation;
- “**forest firefighter**” means a member of a fire brigade, who is assigned primarily to fire suppression duties in a forest fire scene, whether or not those duties include the performance of ambulance or rescue services;
- “**RCS dust**” has the same meaning as in section 6.110 (1) of the Occupational Health and Safety Regulation;
- “**silica process**” has the same meaning as in section 6.110 (1) of the Occupational Health and Safety Regulation;
- “**underground working**” has the same meaning as in section 22.1 (1) of the Occupational Health and Safety Regulation.

(2) For the purposes of the definition of “hazardous work” in section 9.1 (1) of the Act, the following work is prescribed unless the work is carried out by a trainee or an apprentice registered under the *Industry Training Authority Act*:

- (a) construction work;
- (b) the following work in the forest industry:
 - (i) tree falling and logging;
 - (ii) carrying out silviculture activities;
- (c) forest firefighter work;
- (d) work that is done at a place that requires the use of a fall protection system under section 11.2 of the of the Occupational Health and Safety Regulation;
- (e) the operation of a chainsaw;
- (f) the following work in a production process in a processing facility that processes fish, poultry or any other animal:
 - (i) killing or scalding animals;
 - (ii) moving an animal, other than fish or poultry, from a holding pen to a location in which the animal will be killed;
 - (iii) operating machinery that is used for processing, including canning machinery, but not including
 - (A) other machinery used for packaging,

- (B) scales, or
- (C) meat slicers;
- (iv) operating a loader crane;
- (g) the following work in the oil and gas industry:
 - (i) drilling;
 - (ii) well servicing;
- (h) power line construction work or maintenance work that involves potential electrical hazards;
- (i) work in a production process at a paper mill or pulp mill;
- (j) work in a production process at a wood processing facility, including a shake mill, shingle mill or sawmill;
- (k) work in a production process at a foundry, metal processing or metal fabrication operation, refinery or smelter;
- (l) work in a confined space other than entering a walk-in freezer or cooler to place or retrieve an item;
- (m) work in an underground working;
- (n) work that involves exposure to ionizing radiation that exceeds the exposure limits set in section 7.19 of the Occupational Health and Safety Regulation;
- (o) work in a silica process;
- (p) work in which a worker is or may be exposed to potentially harmful levels of RCS dust;
- (q) work in relation to asbestos that constitutes a moderate risk work activity or high risk work activity as defined in section 6.1 of the Occupational Health and Safety Regulation;
- (r) work in which a worker is or might be exposed to an air contaminant that exceeds the limits set out in section 8.32 (a) to (c) of the Occupational Health and Safety Regulation.

Prescribed age

45.26 For the purposes of section 9.1 (2) (b) of the Act,

- (a) the prescribed age in respect of the hazardous work described in section 45.25 (2) (a), (b) (ii) and (c) to (d) of this regulation is 16 years of age, and
- (b) the prescribed age in respect of the hazardous work described in section 45.25 (2) (b) (i) and (e) to (r) is 18 years of age.

3 *The following section is added:*

Transition – employment of children to perform hazardous work

53 Section 9.1 [*hiring children — hazardous industry or hazardous work*] of the Act does not apply in respect of a child if all of the following circumstances apply:

- (a) the child was hired before January 1, 2023;
- (b) the child’s position and duties have not changed since January 1, 2023;

- (c) in the case of
 - (i) hazardous work described in section 45.25 (2) (a), (b) (ii) and (c) to (d), the child will be 16 years of age on April 1, 2023, and
 - (ii) hazardous work described in section 45.25 (2) (b) (i) and (e) to (r), the child will be 18 years of age on April 1, 2023.