Accommodating disabilities

•The law prohibits discrimination against employees incapacitated due to a physical or psychological disability regardless of whether or not it results from an employment-related injury.

•The employer has an obligation to implement necessary measures to accommodate an employee with a physical or psychological disability under the terms of the Canadian Human Rights Act and its interpretation by the courts.

•Each situation is evaluated due, in particular, to the employee's medical restrictions, work environment, abilities and qualifications, size of the company, etc.

•Forms of accommodation including, in particular:

•Modifying task (i.e. lighter tasks)

•Reduced work schedule;

•Physical/ergonomic modifications to the workstation and work environment

•Progressive return to work

•Job change (i.e. 912M)

•The employer may refuse to implement a necessary accommodation measure only in the event that it would cause the employer undue hardship. Undue hardship is evaluated in terms of:

•Costs

•Health and safety

•Other factors may be considered during the evaluation of undue hardship, such as any repercussions the measure may have on terms of the collective agreement and on the other employees. Each case must be evaluated on a case-by-case basis.

•The obligation to accommodate the employee does not require the creation of a special job that fails to meet business needs.

•The obligation to accommodate the employee will vary according to whether the medical restriction is temporary or permanent.

•Both the union and the employee must cooperate with accommodation efforts, including application of the collective agreement.

•The employee in question is obliged to facilitate the accommodation and must do his utmost to limit the impacts of his medical restriction(s).

•The work reinstatement plan must be developed by the employee's manager together with the DMG return-to-work specialist and the HR/IR if need be.

•Please contact your HR/IR consultant if need be.