Ontario

Guide to the Occupational Health and Safety Act

The *Occupational Health and Safety Act* sets out the rights and duties of all parties in the workplace, as well as the procedures for dealing with workplace hazards and for enforcement as needed.

Foreword

This guide does not constitute legal advice. To determine your rights and obligations under the *Occupational Health and Safety Act* (OHSA) and its regulations, please contact your legal counsel or refer to the legislation.

For further information on the OHSA and its requirements you may wish to refer to the relevant health and safety association:

- Health & Safety Ontario
- Workers Health & Safety Centre

Introduction

We all share the goal of making Ontario's workplaces safe and healthy.

The *Occupational Health and Safety Act* [1] provides us with the legal framework and the tools to achieve this goal. It sets out the rights and duties of all parties in the workplace. It establishes procedures for dealing with workplace hazards and it provides for enforcement of the law where compliance has not been achieved voluntarily by workplace parties.

The Act came into force in 1979. Changes to the Act in 1990 and subsequent years continued the evolution of occupational health and safety legislation since its original enactment. These changes have strengthened the requirements for occupational health and safety in Ontario workplaces and have reinforced the internal responsibility system (IRS) and the workplace structures, in particular the joint health and safety committees.

Employers should note that the Act makes it clear that the employers have the greatest responsibilities with respect to health and safety in the workplace. However all workplace parties have a role to play to ensure that health and safety requirements are met in the workplace. All workplace parties have a responsibility for promoting health and safety in the workplace and a role to play to help the workplace be in compliance with the statutory requirements set out under the Act. The respective roles and responsibilities for all workplace parties are detailed in the Act. This is the basis for the internal responsibility system.

Every improvement in occupational health and safety benefits all of us. Through cooperation and commitment, we can make Ontario a safer and healthier place in which to work.

It's worth working for.

About this guide

This **guide does not replace** the *Occupational Health and Safety Act* **(OHSA) and its regulations, and should not be used as or considered legal advice**. Health and safety inspectors apply the law based on the facts in the workplace.

This guide can assist you in understanding how to have a healthy and safe workplace. It explains what every worker, supervisor, employer, constructor and workplace owner needs to know about the *Occupational Health and Safety Act*. It describes workplace parties' rights and responsibilities in the workplace and answers, in plain language, the questions that are most commonly asked about the Act.

This guide is intended to provide an overview of the Act. It is not a legal document. The guide does not cover every situation or answer every question about the legal requirements concerning occupational health and safety in Ontario. In order to understand your legal rights and duties, you must read the Act and the regulations. But if you read this guide beforehand, you may find the technical language of the legislation easier to understand. Throughout the guide, the relevant section numbers of the *Occupational Health and Safety Act* have been inserted in the text for ease of reference.

The Ministry of Labour issues guidance documents to assist with the application and interpretation of sections of the Act that relate to occupational health and safety. Guidance documents are intended to assist workplace parties with compliance, but, are not intended to provide interpretations of the law. This guidance document is designed to provide all workplace parties with guidance on the requirements of the OHSA.

Current versions of Ontario law can be viewed at or downloaded and printed from e-Laws.

If you need help in answering questions about the Act or the regulations, you have a number of options. You may:

- Visit the Ministry of Labour's website
- Call the Ministry's toll-free health and safety information line at 1-877-202-0008 between 8:30 a.m. and 5:00 p.m. Monday-Friday for general inquiries about workplace health and safety
- Seek legal advice.

The Internal Responsibility System

One of the primary purposes of the *Occupational Health and Safety Act* (OHSA) is to facilitate a strong internal responsibility system (IRS) in the workplace. To this end, the OHSA lays out the duties of employers, supervisors, workers, constructors and workplace owners.

Workplace parties' compliance with their respective statutory duties is essential to the establishment of a strong IRS in the workplace.

Simply put, the IRS means that everyone in the workplace has a role to play in keeping workplaces safe and healthy. Workers in the workplace who see a health and safety problem such as a hazard or contravention of the OHSA in the workplace have a statutory duty to report the situation to the employer or a supervisor. Employers and supervisors are, in turn, required to address those situations and acquaint workers with any hazard in the work that they do.

The IRS helps support a safe and healthy workplace. In addition to the workplace parties' compliance with their legal duties, the IRS is further supported by well-defined health and safety policies and programs, including the design, control, monitoring and supervision of the work being performed.

Roles and responsibilities

The employer

The employer, typically represented by senior management, has the greatest responsibilities with respect to health and safety in the workplace and is responsible for taking every precaution reasonable in the circumstances for the protection of a worker. The employer is responsible for ensuring that the IRS is established, promoted,

and that it functions successfully. A strong IRS is an important element of a strong health and safety culture in a workplace. A strong health and safety culture shows respect for the people in the workplace.

Supervisors

Supervisors are responsible for making workers fully aware of the hazards that may be encountered on the job or in the workplace; ensuring that they work safely, responding to any of the hazards brought to their attention, including taking every precaution reasonable in the circumstances for the protection of a worker.

Workers

Worker responsibilities include: reporting hazards in the workplace; working safely and following safe work practices; using the required personal protective equipment for the job at hand; participating in health and safety programs established for the workplace.

Health and safety representatives/joint health and safety committees

The health and safety representative, or the joint health and safety committee (JHSC) where applicable, contribute to workplace health and safety because of their involvement with health and safety issues, and by assessing the effectiveness of the IRS. More information on the roles of the joint health and safety committee and the health and safety representative can be found in this guide and the *Guide for joint health and safety committees and health and safety representatives in the workplace*.

External parties

Parties and organizations external to the workplace also contribute to workplace health and safety. These include the Ministry of Labour (MOL), the Workplace Safety and Insurance Board (WSIB), and the health and safety system partners. The MOL's primary role is to set, communicate, and enforce workplace occupational health and safety standards while encouraging greater workplace self-reliance.

As of April 2012, in addition to the enforcement responsibilities noted above, the ministry is also responsible for developing, coordinating and implementing strategies to prevent workplace injuries and illnesses and set standards for health and safety training. Some of the ways that it carries out its prevention mandate include establishing a provincial occupational health and safety strategy, promoting the alignment of prevention activities across all workplace health and safety system partners and working with Ontario’s health and safety associations (HSAs) to ensure effective delivery of prevention programs and services.

The three rights of workers

The OHSA gives workers three important rights:

1. The right to know about hazards in their work and get information, supervision and instruction to protect their health and safety on the job.
2. The right to participate in identifying and solving workplace health and safety problems either through a health and safety representative or a worker member of a joint health and safety committee.
3. The right to refuse work that they believe is dangerous to their health and safety or that of any other worker in the workplace.

The right to know

Workers have the right to know about any potential hazards to which they may be exposed in the workplace. The primary way that workers can become aware of hazards in the workplace is to be informed and instructed on

how to protect their health and safety, including health and safety related to the use of machinery, equipment, working conditions, processes and hazardous substances.

The employer can enable the workers' right to know in various ways, such as making sure they get:

- Information about the hazards in the work they are doing
- Training to do the work in a healthy and safe way
- Competent supervision to stay healthy and safe.

The right to participate

Workers have the right to be part of the process of identifying and resolving workplace health and safety concerns. This right is expressed through direct worker participation in health and safety in the workplace and/or through worker membership on joint health and safety committees or through worker health and safety representatives.

The right to refuse

Workers have the right to refuse work that they believe is dangerous to either their own health and safety or that of another worker in the workplace. For example, workers may refuse work if they believe their health and safety is endangered by any equipment they are to use or by the physical conditions of the workplace. Section 43 of the Act describes the exact process for refusing work and the responsibilities of the employer/supervisor in responding to such a refusal.

In certain circumstances, members of a joint health and safety committee who are “certified” have the right to stop work that is dangerous to any worker. Sections 45 – 47 of the Act sets out these circumstances and how the right to stop work can be exercised.

About the Act

The *Occupational Health and Safety Act* (OHSA) contains definitions in addition to the content under the following headings:

- Part I Application
- Part II Administration
- Part II.1 Prevention Council, Chief Prevention Officer and Designated Entities
- Part III Duties of Employers and Other Persons
- Part III.0.1 Violence and Harassment
- Part III.1 Codes of Practice
- Part IV Toxic Substances
- Part V Right to Refuse or to Stop Work Where Health or Safety in Danger
- Part VI Reprisals by Employer Prohibited
- Part VII Notices
- Part VIII Enforcement
- Part IX Offences and Penalties
- Part X Regulations

Terms Used

These are some of the terms more commonly used in the Act.

Workplace

Any place in, on or near to where a worker works. A workplace could be a building, a mine, a construction site, an open field, a road, a forest, a vehicle or even a beach. In determining whether a place is a workplace, the Ministry of Labour (MOL) will consider questions such as: Is the worker being directed to work there?

Worker

Worker means any of the following, but does not include an inmate of a correctional institution or like institution or facility who participates inside the institution or facility in a work project or rehabilitation program:

1. A person who performs work or supplies services for monetary compensation.
2. A secondary school student who performs work or supplies services for no monetary compensation under a work experience program authorized by the school board that operates the school in which the student is enrolled.
3. A person who performs work or supplies services for no monetary compensation under a program approved by a college of applied arts and technology, university or other post-secondary institution.
4. Such other persons as may be prescribed who perform work or supply services to an employer for no monetary compensation.

Employer

A person who employs or contracts for the services of one or more workers. The term includes a contractor or subcontractor who performs work or supplies services and a contractor or subcontractor who undertakes with an owner, constructor, contractor, sub-contractor to perform work or supply services.

Constructor

A person who undertakes a project for an owner and includes an owner who undertakes all or part of a project by himself or by more than one employer.

While the identification of a constructor is a fact-specific determination, the constructor is generally the person (such as the general contractor) who has overall control of a project. See also the publication entitled: Constructor Guideline: Health and Safety.

Prescribed

Prescribed means specified in regulations made under the Act.

Supervisor

A person, appointed by an employer, who has charge of a workplace or authority over a worker.

Owner

An owner includes a tenant, lessee, trustee, receiver, mortgagee in possession or occupier of the lands or premises. It also includes any person who acts as an agent for the owner.

Licensee

A person who holds a logging licence under the *Crown Forest Sustainability Act, 1994*.

Regularly Employed

This term is not defined in the OHSA. However, by policy, MOL has interpreted the term to mean employed for a period that exceeds three months.

Workplace Harassment

> Workplace harassment is defined in the OHSA as engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome.

Workplace Violence

> Workplace violence is defined in the OHSA as the exercise or attempted exercise of physical force by a person against a worker, in a workplace, that causes or could cause physical injury to the worker, or a statement or behaviour that it is reasonable for a worker to interpret as a threat to exercise physical force against the worker, in a workplace, that could cause physical injury to the worker.

Part I: Application

Almost every worker, supervisor, employer and workplace in Ontario is covered by the *Occupational Health and Safety Act* (OHSA) and regulations. Regulated parties also include owners, constructors, and suppliers of equipment or materials to workplaces.

Work and workplaces not covered

The *Occupational Health and Safety Act* (OHSA or "the Act") does not apply to:

- work done by the owner or occupant, or a servant of the owner or occupant, in a private residence or in the lands and appurtenances used in connection with the private residence [subsection 3(1)], and
- workplaces under federal jurisdiction, such as:
  - post offices
  - airlines and airports
  - banks
  - some grain elevators
  - telecommunication companies
  - interprovincial trucking, shipping, railway and bus companies.

The law that covers federal workplaces is available online on the Federal Government website. Health and safety provisions are found under Part II of the *Canada Labour Code*.

Does the Act apply to farms?

The OHSA applies with some limitations and exceptions, to all farming operations.

It does not apply to farms operated by a self-employed person without any workers, such as a family farm run by a couple with no other workers.

An electronic version of the regulation is available on the Ontario government website for *O. Reg.414/05: Farming Operations*.

Other regulations under the OHSA that apply to farming operations where the Act applies include *Reg. 834: Critical Injury, Defined*; *O. Reg. 297/13: Occupational Health and Safety Awareness Training*; and *O. Reg. 381/15: Noise*. More information on the application of the OHSA to farming operations is available on the Ontario government website in the MOL guide, Health and Safety in Farming Operations.

Does the Act apply to teachers?

The OHSA applies, with some prescribed limitations and conditions found in *O. Reg. 857: Teachers*. The regulation includes the following:

- the Act applies to all persons who are employed as teachers as defined in the *Education Act*
- the following conditions and limitations apply to the application of the OHSA to teachers:
    - a Principal and Vice-Principal or a teacher appointed by the employer to direct and supervise a school, or an organizational unit of a school, is a person who has charge of a school or authority over a teacher and exercises managerial functions — as such the Act's supervisor duties apply;
    - if an employer of teachers establishes and maintains one joint health and safety committee (JHSC) for all of its teachers, that employer is deemed to be in compliance with subsection 9 (2) of the Act for its teachers (an employer may establish more than one teacher JHSC);
    - the right to refuse work (Part V – OHSA) does not apply to teachers if circumstances are such that the life, health or safety of a pupil is in imminent jeopardy.

For further information on work refusals in the education sector, refer to Part V — Work Refusals, of this guide. For the official legal requirements, refer to the Ontario government website for *Reg. 857: Teachers*. In addition, the following is a link to the *Education Act* for reference.

Does the Act apply to the self-employed person?

Specific provisions in the OHSA, such as those relating to specific employer duties, hazardous materials, notification, and enforcement, apply with necessary modifications to self-employed persons.

If you still are not sure if the Act applies to you or your workplace

If there is any question about whether the OHSA applies to you or your workplace, you may consider calling the Ministry of Labour's health and safety information line:

Health & Safety Contact Centre
Toll Free: 1-877-202-0008
TTY: 1-855-653-9260
Fax: 905-577-1316

General inquiries about workplace health and safety are taken from 8:30 a.m. – 5:00 p.m., Monday – Friday.

Content last reviewed May 2019.

Part II: Administration

Part II relates to the administration of the *Occupational Health and Safety Act* (OHSA) and covers the requirements setting out the creation, selection, powers, rights and obligations of the joint health and safety committee and health and safety representatives.

Joint health and safety committees

A joint health and safety committee (JHSC) is a workplace committee comprised of worker and management representatives. At least half of the members of the JHSC must be workers (selected by workers or by the trade union(s) that represent the workers) employed at the workplace and that do not exercise managerial duties. This committee has various powers, including monitoring health and safety in the workplace, identifying hazards in the workplace, and recommending health and safety improvements where and when required.

The committee is authorized to hold meetings and conduct regular workplace inspections and make written recommendations to the employer for the improvement of the health and safety of workers.

Part II outlines the requirements of the Act regarding committees. More detailed information is available in the *Guide for Health and Safety Committees and Representatives*, available on the Ministry of Labour internet website.

The function and power of the JHSC

The JHSC has several important functions and powers which enable the committee to support the IRS and ensure it is functioning effectively.

Identify workplace hazards

One of the main purposes of the JHSC is to identify workplace hazards, such as machinery, substances, production processes, working conditions, procedures or anything else that can endanger the health and safety of workers [clause 9(18)(a)]. To a large extent, this purpose is met by carrying out inspections of the workplace. It may obtain and review specified types of information (e.g. information identifying potential or existing hazards) from the employer so that corrective action can be recommended.

Unless otherwise required by Regulation or an inspector's order, the Act requires that a designated member of the committee, who represents workers, inspect the workplace at least once a month. In some cases, this may not be practical. For example, the workplace may be too large and complex to be inspected fully each month. Where it is impractical to conduct monthly inspections, the committee must establish an inspection schedule that will ensure that at least part of the workplace is inspected each month and the entire workplace is inspected at least once a year [subsections 9(26), (27) and (28)].

Obtain information from the employer

For most committees, the employer is likely to be an important source of information. The committee has the power to obtain information from the employer, such as information about any actual or potential hazards in the workplace, about the health and safety experience and work practices and standards in other workplaces of which the employer is aware and about any workplace testing that is being carried out for occupational health and safety purposes.

Be consulted about workplace testing

If the employer intends to do specified testing in or about the workplace that is related to occupational health and safety, the joint health and safety committee has the right to be consulted before the testing takes place. A designated member of the JHSC representing workers may also be present at the beginning of such testing if the committee believes that his or her presence is necessary to ensure that valid testing procedures are used or to ensure that test results are valid [clause 9(18)(f)].

Make recommendations to the employer

The committee has the power to make recommendations to the employer and to the workers on ways to improve workplace health and safety. For example, the committee could recommend that a new type of hearing protection be given to workers in noisy areas, or that safety training programs be established, or that special testing of the work environment be carried out [clauses 9(18)(b) and (c)].

If the committee has failed to reach a consensus about making recommendations after trying to reach a consensus in good faith to do so, either co-chair of the committee has the power to make written recommendations to the constructor or the employer.

The employer must provide a written response within 21 calendar days, to any **written recommendations** from the committee or co-chair. If the employer agrees with the recommendations, the response must include a

timetable for implementation. For example, if the employer agrees that a special training program should be established, the response must say when the program will begin to be developed and when it will be delivered. If the employer disagrees with a recommendation, the response must give the reasons for disagreement [subsections 9(20) and (21)].

Investigate work refusals

The committee members who represent workers must designate one of their group to be present at the investigation of a work refusal. For more information, see Part V: The right to refuse or to stop work where health and safety in danger.

Investigate critical injuries or fatalities

The members of a committee who represent workers must designate one or more worker members to investigate cases in which a worker is killed or critically injured at a workplace. The designated member(s) may (subject to subsection 51(2) of the Act) inspect the place where the accident occurred and any machine, device, etc. and report his or her findings to a Director and the committee [subsection 9(31)].

Obtain information from the Workplace Safety and Insurance Board

In workplaces which are subject to the *Workplace Safety and Insurance Act, 1997* (WSIA), at the request of the employer, a worker, committee, health and safety representative or trade union, the Workplace Safety and Insurance Board (WSIB) must provide the employer with an annual summary of information about the employer [subsection 12(1)]. This information must include:

- number of work-related fatalities
- number of lost time injuries
- number of workdays lost
- number of injuries requiring medical aid but that did not involve lost workdays
- incidence of occupational illnesses, and
- number of occupational injuries.

The WSIB can include any other information it considers necessary.

When this report is received from the WSIB, an employer must post it in a conspicuous place(s) in the workplace, where it is likely to be seen by the workers.

Employer's duty to co-operate with the committee

Under the Act, an employer has a general duty to co operate with and help the joint health and safety committee to carry out its functions [clause 25(2)(e)]. In particular, the employer is required to:

- provide any information that the committee has the power to obtain from the employer
- respond to committee recommendations in writing, as described earlier (subsection 9(20))
- give the committee copies of all written orders and reports issued by the Ministry of Labour inspector and (subsection 57(10), and
- report any workplace deaths, injuries and illnesses to the committee (subsection 52(1)).

In addition to the above noted duties, the employer must provide notices to the committee related to death and injury, accident, explosion, fire or violence causing injury, occupational illness, and accidents at a project site or mine (see Part VII: Notices).

The employer must also advise the committee of the results of an assessment of risks of workplace violence [section 32.0.3] and provide the results of any report on occupational health and safety that is in the employer's possession [clause 25(2)(l)]. Where the report is in writing, the employer must provide the committee with the portions of the report that relate to occupational health and safety.

Certified members of committees

A "certified" member of a joint health and safety committee is a member who has received specialized training in occupational health and safety and has been certified by the Chief Prevention Officer under the OHSA as of April 1, 2012.

Prior to April 1, 2012 JHSC members were certified by the WSIB under the WSIA. Those certifications are still recognized under the OHSA.

The certified member plays an important role on the committee and in the workplace and possesses specific powers under the OHSA.

In general, constructors and employers are required to ensure that joint health and safety committees in their workplaces have at least two certified members (one representing workers and one representing the employer/constructor). Subsection 9(13) and *O. Reg. 385/96, Joint Health and Safety Committees Exemption from Requirements*, specify exceptions to this general certification requirement.

More detailed information is available in the *Guide for Health and Safety Committees and Representatives*.

Worker trades committees on construction projects

In addition to the above rules about JHSCs, there are special rules for the establishment and operation of worker trades committees on construction projects of specified size and duration.

- All members of the worker trades committee are chosen by the workers in the trade represented by the committee, or by their union where applicable [subsection 10(3)].
- Worker trades committees are required on projects that regularly employ 50 or more workers and are expected to last at least three months [subsection 10(1)].

It is the responsibility of the JHSC at the construction project, not of the employer or constructor, to establish the worker trades committee. The OHSA requires that the worker trades committee represent workers employed in each of the trades in the workplace and that the members of this committee are to be selected by the workers, who are employed in the trades that the members are to represent, or by the representative trade union (where applicable).

What are the functions of the worker trades committee?

The worker trades committee has the sole function of informing the JHSC of any health and safety concerns of workers who are employed in the trades in the workplace.

Health and safety representatives

Not all workplaces are required to have a joint health and safety committee. In most small workplaces, a health and safety representative of the workers is required instead of a committee. This section outlines the provisions of the Act that cover health and safety representatives.

A health and safety representative is required at a workplace or construction project where the number of workers in the workplace regularly exceeds five, and where there is no joint health and safety committee

required [subsection 8(1)]. The health and safety representative must be chosen by the workers who do not exercise managerial functions and who will be represented by the representative, or by the union if there is one [subsection 8(5)].

MOL is of the view that the workers do not need to all be physically present in the workplace at the same time for the purposes of determining if the number of workers in the workplace regularly exceeds the statutory threshold.

Health and safety representatives have many of the same powers as joint health and safety committee members, except for the power to stop work. If you are a health and safety representative, please read the previous section on joint health and safety committees, and also refer to the *Guide for Health and Safety Committees and Representatives*.

The function and powers of the health and safety representative

A health and safety representative has the following powers:

Identify workplace hazards

The health and safety representative has the power to identify workplace hazards and make recommendations or report his or her findings to the employer, workers and relevant trade union(s) (if any). This power is usually exercised by conducting workplace inspections.

Unless otherwise required by the regulations or by an inspector's order, the representative must inspect the physical condition of the workplace at least once a month [subsection 8(6)]. If it is not practical, for some reason, to inspect the entire workplace once a month, at least part of it must be inspected monthly, following a schedule agreed upon by the representative and the employer/constructor. The entire workplace must be inspected at least once a year [subsections 8(7) and (8)].

The constructor, employer and workers are required to give the representative any information and assistance needed to carry out these inspections [subsection 8(9)].

Obtain information from the employer

Under the Act an employer has a general duty to co operate with and help the health and safety representative to carry out his or her functions [clause 25(2)(e)]. The health and safety representative has the power to obtain information from the constructor or employer concerning tests, if any, on equipment, machine, agents, etc. in the workplace. This power is reinforced by the employer's duty to assist and cooperate with the health and safety representative in the carrying out of his/her functions, to advise the health and safety representative of the results of an assessment of risks of workplace violence and provide a copy of the assessment if it is in writing [section 32.0.3], and to provide the health and safety representative with the results of a report on occupational health and safety [clause 25(2)(l)].

Be consulted about workplace testing

If the employer intends to do specified testing in or about the workplace that is related to occupational health and safety, the representative has the right to be consulted before the testing takes place. He or she may also be present at the beginning of such testing if the representative believes that his or her presence is necessary to ensure that valid testing procedures are used or to ensure that test results are valid [clause 8(11)(b)].

Make recommendations to the employer

The representative has the power to make recommendations to the employer on ways to improve workplace health and safety – the same power given to joint health and safety committees.

The constructor or employer must respond in writing, within 21 calendar days, to any written recommendations [subsection 8(12)].

Investigate work refusals

The health and safety representative must be present at the employer's investigation of a work refusal unless another worker, who has been selected by a trade union or the workers in the workplace to represent them in work refusal investigations, is present. For more information, see Part V: Right to refuse or to stop work where health and safety in danger in this Guide.

Investigate serious injuries

If a worker is killed or critically injured on the job, the representative has the power to inspect the scene where the injury occurred and any machine, device, thing, etc. subject to subsection 51(2) of the OHSA. His or her findings must be reported in writing to a Director of the Ministry of Labour [subsection 8(14)].

Request information from the Workplace Safety and Insurance Board (WSIB)

In workplaces to which the WSIA applies, the health and safety representative has the power to request specified types of information from the WSIB (e.g. number of employer's work-related fatalities, number of employer's lost workdays). This same power is available to a joint health and safety committee member. When this information is received from the WSIB, an employer must post it in the workplace, in a conspicuous location(s) where it is likely to be seen by the workers [subsection 12(1)].

More detailed information is available in the *Guide for Health and Safety Committees and Representatives*.

Employer's duty to cooperate with the health and safety representative

Under the Act, an employer has a general duty to co operate with and help the health and safety representative to carry out functions [clause 25(2)(e)]. In particular, the employer is required to:

- provide any information that the health and safety representative has the power to obtain from the employer
- respond to health and safety representative recommendations in writing, as described earlier [subsection 8(12)]
- give the health and safety representative copies of all written orders and reports issued by the Ministry of Labour inspector, and (subsection 57(10), and
- report any workplace deaths, injuries and illnesses to the health and safety representative [subsection 52(1)].

In addition to the above noted duties, the employer must provide notices related to death and injury, accident, explosion, fire or violence causing injury, occupational illness, and accidents at a project site or mine (see Part VII – Notices).

The employer must also advise the health and safety representative of the results of an assessment of risks of workplace violence [section 32.0.3] and provide the results of any report on occupational health and safety that is in the employer's possession [clause 25(2)(l)]. Where the report is in writing, the employer must provide the health and safety representative with the portions of the report that relate to occupational health and safety.

Part II.I: Prevention Council, Chief Prevention Officer and designated entities

Part II.I of the Act sets out the prevention mandate of the Minister, the structure and powers of the Prevention Council, the powers and duties of the Chief Prevention Officer (CPO), and sets out the process for an entity to become designated. In the occupational health and safety system, these designated entities are more commonly referred to as health and safety associations (HSAs).

It should be noted that the *Occupational Health and Safety Act* (OHSA) does not "establish" the entities. They are established and incorporated outside the purview of the legislation but become designated through the process that is set out in the OHSA and is thereby subject to the standards and other requirements specified therein.

The Prevention Council is made up of an equal number of representatives of employers and labour organizations. In addition, representatives of non-unionized workers, the Workplace Safety and Insurance Board and persons with occupational health and safety expertise must be represented but cannot collectively make up more than one third of the total membership. The Prevention Council is an advisory agency, which provides advice to the Minister and CPO on specified issues.

The role of the CPO includes the following:

a. develop a provincial occupational health and safety strategy
b. prepare an annual report on occupational health and safety
c. exercise any power or duty delegated to him or her by the Minister under the OHSA
d. provide advice to the Minister on the prevention of workplace injuries and occupational diseases
e. provide advice to the Minister on any proposed changes to the funding and delivery of services for the prevention of workplace injuries and occupational diseases
f. provide advice to the Minister on the establishment of standards for designated entities under section 22.5 of OHSA
g. exercise the powers and perform the duties with respect to training that are set out in sections 7.1 to 7.5 of OHSA
h. establish requirements for the certification of persons for the purposes of the OHSA and certify persons under section 7.6 of OHSA who meet those requirements
i. exercise the powers and perform the duties set out in section 22.7 of OHSA, and
j. exercise such other powers and perform such other duties as may be assigned to the Chief Prevention Officer under the OHSA [subsection 22.3 (1)].

Part III: Duties of employers and other persons

The *Occupational Health and Safety Act* (OHSA or "the Act") includes legal duties for employers, constructors, supervisors, owners, suppliers, licensees, officers of a corporation and workers, among others. Part III of the OHSA specifies the general duties of these workplace parties.

General duties of employers

An employer who is covered by the OHSA, has a range of legal duties, including the duty to ensure that equipment, materials, and protective devices as prescribed, are provided, are maintained in good condition, that prescribed measures and procedures are carried out in the workplace [subsection 25(1)], and the obligation to:

- instruct, inform and supervise workers to protect their health and safety [clause 25(2)(a)]
- assist in a medical emergency by providing any information, including confidential business information, to a qualified medical practitioner and other prescribed persons for the purpose of diagnosis or treatment

[clause 25(2)(b)]
- appoint competent persons as supervisors [clause 25(2)(c)]. “Competent person” is a defined term under the OHSA as a person who:
  - is qualified because of knowledge, training and experience to organize the work and its performance,
  - is familiar with the Act and the regulations that apply to the work, and
  - has knowledge of any potential or actual danger to health or safety in the workplace
- inform a worker, or a person in authority over a worker, about any hazard in the work and train that worker in the handling, storage, use, disposal and transport of any equipment, substances, tools, material, etc. [clause 25(2)(d)]
- help joint health and safety committees (JHSCs) and health and safety representatives to carry out their functions [clause 25(2)(e)]
- not employ or permit persons under the prescribed age for the employer’s workplace, to be in or near the workplace [clauses 25(2)(f) and (g)]
- take every precaution reasonable in the circumstances for the protection of a worker [clause 25(2)(h)]
- post a copy of the OHSA in the workplace, as well as explanatory material prepared by the Ministry of Labour that outlines the rights, responsibilities and duties of workers in both English and in the majority language in the workplace [clause 25(2)(i)]
- in workplaces in which **more than five workers** are regularly employed, prepare a written occupational health and safety policy, review that policy at least once a year and set up and maintain a program to implement it [clause 25(2)(j)]. See Appendix A of this guide for guidance on how to do this
- post a copy of the occupational health and safety policy in the workplace, where workers will be most likely to see it [clause 25 (2)(k)]
- provide the JHSC or the health and safety representative with the results of any occupational health and safety report that the employer has. If the report is in writing, the employer must also provide a copy of the parts of the report that relate to occupational health and safety [clause 25(2)(l)]
- advise workers of the results of such a report. If the report is in writing, the employer must, on request, make available to workers copies of those portions that concern occupational health and safety [clause 25(2)(m)]
- notify a Director of the MOL if a JHSC (or a health and safety representative) has identified potential structural inadequacies of a building, structure, or any part thereof, or any other part of a workplace, whether temporary or permanent, as a source of danger or hazard to workers [clause 25(2)(n)] (Note: this clause does not apply to an employer that owns the workplace [section 25(5)]

Also note that a related duty under section 25(1) of the OHSA requires employers to ensure that every part of the physical structure of the workplace, whether it is temporary or permanent, complies with load requirements prescribed in the applicable Building Code provisions, any prescribed standards or sound engineering practice where Building Code provisions or prescribed standards do not apply [clause 25(1)(e)].

Employers may appoint themselves as supervisors if they meet all three qualifications of a competent person. [subsection 25(3)].

Prescribed duties of employers

Please note that some employer duties make reference to prescribed requirements. For example, clause 25(1)(c) of the OHSA requires that employers carry out any measures and procedures that are prescribed for the workplace. “Prescribed” means specified in regulation. Where a regulation specifies measures and procedures for a specific type of workplace (e.g. an industrial establishment), the employer is required to carry out those measures and procedures.

Basic occupational health and safety awareness training for workers and supervisors

In addition to requirements for workplace-specific and hazard-specific training, employers are also required to ensure that their workers and supervisors complete, or have completed an occupational health and safety awareness training program that meets regulatory requirements in O. Reg.297/13, Health and Safety Awareness and Training.

The mandatory occupational health and safety awareness training requirement applies to all workplaces covered under the OHSA, such as construction projects, retail stores, hospitals and long-term care facilities, mines and mining plans, and farming operations. Note that awareness training does not replace other training and educational requirements under the OHSA.

A complete list of OHSA regulations can be viewed on the Ministry of Labour's website.

Duties of employers with respect to footwear

Employers cannot require a worker to wear footwear with an elevated heel unless it is required for the worker to perform his or her work safely [subsection 25.1 (1)]. This does not apply to an employer of a worker who works as a performer in the entertainment and advertising industry [subsection 25.1 (2)]. For example, a restaurant manager cannot require hostesses to wear high heels as part of a dress code, whereby an actor may have to wear heels for a performance or part of a performance.

The OHSA defines “entertainment and advertising industry” [subsection 25.1 (3)] to mean the industry of producing live or broadcast performances, or producing visual, audio or audio-visual recordings of performances, in any medium or format.

“Performances” means performances of any kind, including theatre, dance, ice skating, comedy, musical productions, variety, circus, concerts, opera, modelling and voice-over. “Performer” has a corresponding meaning [(subsection 25.1(3)].

Note that section 25.1 does not affect any of the personal protective equipment requirements regarding footwear in the regulations made under the OHSA. Employers should consult the footwear provisions in the regulations made under the OHSA regarding requirements that apply to their workplace.

Duties of employers with respect to workplace violence and workplace harassment

Employers have specific duties regarding workplace violence and workplace harassment. Please see Part III.0.I of this guide for more information.

Duties of employers concerning toxic substances

In workplaces where there are toxic or hazardous substances, the employer has many specific duties. These are described in detail in Part IV — Toxic substances.

Duties of supervisors

The *Occupational Health and Safety Act* (OHSA) sets out certain specific duties for workplace supervisors. A supervisor must:

- ensure that a worker works in the manner and with the protective devices, measures and procedures required by the OHSA and the regulations [clause 27(1)(a)]

- ensure that any equipment, protective device or clothing required by the employer is used or worn by the worker [clause 27(1)(b)]
- advise a worker of any potential or actual health or safety dangers known by the supervisor [clause 27(2)(a)]
- if prescribed, provide a worker with written instructions about the measures and procedures to be taken for the worker's protection [clause 27(2)(b)], and
- take every precaution reasonable in the circumstances for the protection of workers [clause 27(2)(c)].

Who is a supervisor?

A supervisor is a person appointed by the employer who has charge of a workplace or authority over a worker [subsection 1 (1)].

Workers are often asked to act as supervisors in the absence of persons hired in that capacity, particularly those identified by such terms as senior, charge, or lead hands. Despite the term used, it is very important to understand that if a worker or lead hand has been given "charge of a workplace or authority over a worker" this person has met the definition of a supervisor within the meaning of the OHSA and assumes the legal responsibilities of a supervisor under the Act.

Who is a competent person?

A competent person is defined in the OHSA as someone who is qualified because of knowledge, training and experience to organize the work and its performance, is familiar with this Act and the regulations that apply to the work, and has knowledge of any potential or actual danger to health or safety in the workplace.

The OHSA requires that employers appoint a competent person as a supervisor [clause 25(2)(c)].

Duties of constructors

Who is a constructor?

A constructor is defined in the OHSA as a person who undertakes a project for an owner and includes an owner who undertakes all or part of a project by himself or by more than one employer. The constructor is generally the person who has overall control of a project.

For more information, see the MOL publication on this website, entitled: Constructor Guideline: Health and Safety.

Under the OHSA, the constructor's duties include the following:

- to ensure that the measures and procedures prescribed by this Act and the regulations are carried out on the project [clause 23(1)(a)]
- to ensure that every employer and every worker performing work on the project complies with the OHSA and the regulations [clause 23(1)(b)], and
- to ensure that the health and safety of workers on the project is protected [clause 23(1)(c)].

Where required in regulation, a constructor must give notice to the Ministry of Labour, containing prescribed information, before work begins on a project [subsection 23(2)]. The Regulation for Construction Projects (O. Reg. 213/91) made under the Act specifies the projects in respect of which notice shall be provided and the content of the notice.

Duties of owners

Who is an owner?

An owner is defined in section 1 of the OHSA as "a trustee, receiver, mortgagee in possession, tenant lessee, or occupier of any lands or premises used or to be used as a workplace, and any person who acts for or on behalf of an owner as an agent or delegate." This term includes individuals other than just the person with legal ownership of the premises or land that is being used as a workplace.

An owner may also be an employer under the Act. An owner of a workplace that is not a construction project, such as a factory, warehouse, car dealership, office) also has duties under the OHSA.

An owner must ensure that:

- workplace facilities are provided and maintained as prescribed [clauses 29(1)(a)(i) and (ii)]
- the workplace complies with the regulations [clause 29(1)(a)(iii)]
- no workplace is constructed, developed, reconstructed, altered or added to except in compliance with the Act and regulations [clauses 29(1)(a)(iv)], and
- where prescribed, provide a Director of the MOL with drawings, plans or specifications as prescribed [clause 29(1)(b)].

Where prescribed, an owner or employer is required to file with the Ministry of Labour, before any work is done, complete plans (i.e., drawings, layout, specifications and any alterations thereto) for the construction of or change to a workplace [clause 29(3)(a)]. This information will be reviewed by a ministry engineer to determine compliance with the OHSA and regulations. The ministry engineer may also require additional information on the plans from the employer or owner [subsection 29(4)].

If a regulation requires submission of the plans to the Ministry for review by a ministry engineer, a copy must be kept at the workplace and produced for inspection and examination by a ministry inspector upon request [clause 29(3)(b)].

Other requirements apply to owners of mines. For example, the owner of a mine must update drawings and plans every six months and include the prescribed details that are set out under section 22 of Mines and Mining Plants Regulation 854 [subsection 29(2)].

Duties of owners and constructors concerning designated substances on construction projects

Several duties regarding designated substances apply to all owners of construction projects and constructors.

Before beginning a project, the owner shall determine whether any designated substances are present on the site and shall prepare a list of these substances.

If work on a project is tendered, the person issuing the tenders (e.g. the owner, constructor) shall include the list of designated substances in the tendering information.

Before the owner can enter into a binding contract with a constructor to work on a site where there are designated substances, the owner must ensure that the constructor has a copy of the list of designated substances [subsection 30(3)]. The constructor must in turn ensure that any prospective contractor or subcontractor has a copy of the list before any binding contract for work on the project can be made [subsection 30(4)].

An owner, who fails to comply with the applicable aforementioned duties, is liable to a constructor and every contractor and subcontractor who suffers any loss or damages as a result of the presence of designated substances that were not on the list and that the owner ought reasonably to have known of. The constructor, who fails to comply with the applicable aforementioned duties, is similarly liable for any loss or damages suffered by a contractor or general contractor [subsection 30(5)].

Duties of suppliers

Every person who supplies workplace equipment of any kind under a rental, leasing or similar arrangement must ensure that:

- the equipment complies with the OHSA and regulations,
- is in good condition and,
- in specified circumstances, is maintained in good condition [subsection 31(1)].

Duties of licensees

A licensed area is land on which the licensee is authorized to harvest or use forest resources [subsection 24(2)]. A licensee must ensure that, in the licensed area:

- the measures and procedures specified in the Act and regulations are carried out
- every employer logging for the licensee complies with the Act and regulations, and
- the health and safety of workers employed by those employers is protected [subsection 24(1)].

Duties of corporate officers and directors

Every officer and director of a corporation must take all reasonable care to ensure that the corporation complies with the Act and regulations as well as with any orders and requirements of Ministry of Labour inspectors, directors and the Minister [section 32].

Contraventions by architects and engineers

Architects and engineers are in contravention of the Act if they negligently or incompetently give advice or a certification required under the Act and, as a result, a worker is endangered [subsection 31(2)].

Duties of workers

Workers play a key role in health and safety at the workplace. Workers have various duties under the OHSA. Under the OHSA, a worker must:

- work in compliance with the Act and regulations [clause 28(1)(a)]
- use or wear any equipment, protective devices or clothing required by the employer [clause 28(1)(b)]
- report to the employer or supervisor any known missing or defective equipment or protective device that may endanger the worker or another worker [clause 28(1)(c)]
- report any hazard or contravention of the Act or regulations to the employer or supervisor [clause 28(1)(d)]
- not remove or make ineffective any protective device required by the employer or by the regulations other than in circumstances specified below [clause 28(2)(a)]. The only circumstance in which a worker may remove a protective device is where an adequate temporary protective device is provided in its place. Once there is no longer a need to remove the required protective device or to make it ineffective, it must be replaced immediately.
- not use or operate any equipment or work in a way that may endanger any worker [clause 28(2)(b)], and
- not engage in any prank, contest, feat of strength, unnecessary running or rough and boisterous conduct [clause 28(2)(c)]. Racing powered hand trucks in a warehouse or seeing who can pick up the most boxes are examples of unlawful conduct.

Content last reviewed May 2019.

Part III.0.I: Workplace violence and workplace harassment

This section outlines the workplace violence and workplace harassment provisions of the Act. More detailed information is available in the Ministry of Labour's *Understand the law on workplace violence and harassment*, available from ServiceOntario Publications and on the Ministry of Labour internet website.

The *Occupational Health and Safety Act* (OHSA) sets out the duties of workplace parties in respect of workplace violence and workplace harassment. Violence or harassment in the workplace may originate from anyone the worker comes into contact with in a workplace, such as a client, a customer, a student, a patient, a co-worker, an employer, or a supervisor. Or the person may be someone with no formal connection to the workplace, such as a stranger or a domestic/intimate partner, who brings violence or harassment into the workplace.

A continuum of inappropriate behaviors can occur at the workplace. This can range from offensive remarks to violence.

It is important for employers to recognize and address these unwanted behaviors early because they could lead to workplace violence. The Criminal Code deals with matters such as violent acts, threats and behaviours, such as stalking. The police should be contacted in these situations. Harassment may also be a matter that falls under Ontario's *Human Rights Code*.

The following are key requirements of the Act, with respect to workplace violence and workplace harassment.

Workplace harassment

Workplace harassment is defined in the OHSA as "engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome" and includes workplace sexual harassment [subsection 1(1)].

The comments or conduct typically happen more than once. They could occur over a relatively short period of time (for example, during the course of one day) or over a longer period of time (weeks, months or years). However, there may be a situation where the conduct happens only once, such as an unwelcome sexual solicitation from a manager or employer.

Workplace harassment can include unwelcome and/or repeated words or actions that are known or should be known to be offensive, embarrassing, humiliating or demeaning to a worker or group of workers. It can also include behaviour that intimidates, isolates or even discriminates against a worker or group of workers in the workplace that are unwelcome.

This definition of workplace harassment is broad enough to include harassment prohibited under Ontario's *Human Rights Code*, as well as what is often called "psychological harassment" or "personal harassment." The Ontario Human Rights Commission has a role in facilitating compliance with the *Ontario Human Rights Code*.

Workplace harassment does not include a reasonable action taken by an employer or supervisor relating to the management and direction of workers or the workplace [subsection 1(4)].

Workplace sexual harassment

The OHSA defines workplace sexual harassment as:

- engaging in a course of vexatious comment or conduct against a worker in a workplace because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome, or

- making a sexual solicitation or advance where the person making it is in a position to confer, grant or deny a benefit or advancement to the worker and the person knows or ought reasonably to know that the solicitation or advance is unwelcome [subsection 1(1)].

This definition of workplace sexual harassment is similar to the prohibitions on sexual harassment and sexual solicitation found in Ontario's *Human Rights Code*.

Workplace violence

Workplace violence is defined in the OHSA as:

- the exercise of physical force by a person against a worker, in a workplace, that causes or could cause physical injury to the worker,
- an attempt to exercise physical force against a worker, in a workplace, that could cause physical injury to the worker,
- a statement or behaviour that it is reasonable for a worker to interpret as a threat to exercise physical force against the worker, in a workplace, that could cause physical injury to the worker [subsection 1(1)].

This definition of workplace violence is broad enough to include acts that would constitute offences under Canada's *Criminal Code*.

Policies

All employers, who are subject to the OHSA, must prepare policies with respect to workplace violence and workplace harassment and review them at least once a year [subsection 32.0.1(1)].

In a workplace where there are six or more regularly employed workers, the policies are required to be in writing and posted in the workplace where workers are likely to see them [subsections 32.0.1(2) and (3)].

Programs

Employers must set up and maintain programs to implement the workplace violence and workplace harassment policies [subsection 32.0.2(1) and subsection 32.0.6(2)]. A **workplace violence program** must include the following:

- measures and procedures to control risks identified in an assessment of risks as likely to expose a worker to physical injury
- measures and procedures for workers to report incidents of workplace violence
- measures and procedures for summoning immediate assistance when workplace violence occurs or is likely to occur, and
- how the employer will investigate and deal with incidents or complaints of workplace violence [subsection 32.0.2(2)].

A **workplace harassment program** must include the following:

- measures and procedures for workers to report incidents of workplace harassment to the employer or supervisor, and to another person if the employer or supervisor is the alleged harasser
- how incidents or complaints of workplace harassment will be investigated and dealt with
- how information obtained about an incident or complaint of workplace harassment, including identifying information about any individuals involved, will **not** be disclosed unless necessary for the purposes of investigating the incident or complaint, or for taking corrective action, or is otherwise required by law
- how certain workers will be informed of the results of the investigation and of any corrective action [subsection 32.0.6(2)].

The workplace harassment program must be in writing, and must be developed and maintained in consultation with the Joint Health and Safety Committee (JHSC) or health and safety representative, if any [subsection 32.0.6(1)].

Information and instruction on workplace violence and harassment

Under the OHSA, an employer must provide appropriate information and instruction to workers on the contents of the workplace violence and harassment policies and programs [subsection 32.0.5(2)] and section 32.0.8].

All workers should be aware of the employer's workplace violence and harassment policies and programs. For workplace violence, workers should:

- know how to summon immediate assistance when workplace violence occurs or is likely to occur
- know how to report incidents of workplace violence to the employer or supervisor
- know how the employer will investigate and deal with incidents, threats or complaints of workplace violence
- know, understand and be able to carry out the measures and procedures that are in place to protect them from workplace violence, and
- be able to carry out any other procedures that are part of the program.

For workplace harassment, workers should:

- know how to report incidents of workplace harassment to the employer or supervisor
- know how to report incidents of workplace harassment where the employer or supervisor is the alleged harasser
- know how the employer will investigate and deal with incidents or complaints of workplace harassment
- know how information about an incident or complaint of workplace harassment will be kept confidential unless disclosure is necessary for investigating or taking corrective action, or is otherwise required by law
- know that the results of an investigation and any corrective actions will be provided to the worker who alleged workplace harassment and to the alleged harasser (if the alleged harasser is a worker of the same employer).

Practically speaking, workers may need other information and instruction on workplace violence and harassment, depending on their jobs. For example, supervisors may need additional information or instruction, especially if they are going to follow up on reported incidents or complaints of workplace violence or workplace harassment.

In addition, general duties for employers under section 25, supervisor duties under section 27, and worker duties set out in section 28 apply, as appropriate.

Specific duties regarding workplace harassment

In order to protect a worker from workplace harassment, the OHSA requires that employers ensure that:

- an investigation is conducted into incidents and complaints of workplace harassment that is appropriate in the circumstances;
- the worker who was allegedly harassed, and the alleged harasser (if he or she is also a worker of the employer), are informed in writing of the results of a workplace harassment investigation and of any corrective action that has been or that will be taken as a result of the investigation; and
- they review the workplace harassment program as often as necessary, but at least annually, to ensure that it adequately implements the workplace harassment policy. [section 32.0.7].

Results of investigation is not a report

The OHSA specifies that the results of a workplace harassment investigation, and any report created during, or for the purposes of the investigation, is not a report that is required to be provided to the JHSC or health and safety representative for the purposes of subsection 25(2) [subsection 32.0.7(2)].

Assessment of risks for workplace violence

The employer must:s

- assess the risks of workplace violence that may arise from the nature of the workplace, type of work or conditions of work [subsection 32.0.3(1)]
- ensure the assessment takes the circumstances into account that are specific to the workplace and circumstances common to similar workplaces [subsection 32.0.3(2)], and,
- include in the workplace violence program measures and procedures to control identified risks identified in the assessment as likely to expose a worker to physical injury [clause 32.0.2(2)(a)].

The employer must advise the joint health and safety committee (JHSC)or health and safety representative, if any, of the assessment results. If the assessment is in writing, the employer must provide a copy to the JHSC or the health and safety representative [clause 32.0.3(3)(a)].

If there is no JHSC or the health and safety representative, the employer must advise workers of the assessment results. If the assessment is in writing, the employer must provide copies to workers on request or advise the workers how to obtain copies [clause 32.0.3(3)(b)].

Employers must repeat the assessment as often as necessary to ensure the workplace violence policy and related program continue to protect workers from workplace violence [subsection 32.0.3(4)] and inform the JHSC, health and safety representative, or workers of the results of the re-assessment [subsection 32.0.3(5)].

Please note that an assessment of the risks of workplace violence should be specific to the workplace.

The OHSA does not require an employer to proactively assess the risks of violence between individual workers. It could be difficult for the employer to predict when violence may occur between individual workers. However, a review of incidents or threats of violence from all sources may indicate the origins of workplace violence and likelihood of violence between workers at a particular workplace.

The OHSA requires employers and supervisors to provide a worker with information, including personal information, related to a risk of workplace violence from a person with a history of violent behaviour [section 32.0.5(3)]. Further details regarding disclosure and limitations of providing information are available in the Ministry of Labour's Understand the law on workplace violence and harassment guide.

Domestic violence

Employers who are aware of, or who ought reasonably to be aware of, domestic violence that would likely expose a worker to physical injury in the workplace must take every precaution reasonable in the circumstances to protect the worker [section 32.0.4].

Some indicators that domestic violence may occur in the workplace include reported concerns from the targeted worker or other workers, threatening calls or unwelcome visits at the workplace.

Measures and procedures in the workplace violence program can help protect workers from domestic violence in the workplace. For example, measures for the summoning of immediate assistance or for reporting of violent incidents could help protect workers from domestic violence when it may occur in the workplace.

Workers should be told that they can report their concerns to their employer if they fear that domestic violence may enter the workplace.

Employers must be prepared to investigate and deal with these concerns on a case-by-case basis. In addition to evaluating a worker's specific circumstances, employers should determine how measures and procedures in the existing workplace violence program could be used to support the development of reasonable precautions for the worker.

General duties and application to workplace violence

The general duties under the OHSA for employers [section 25], supervisors [section 27] and workers [section 28] continue to apply with respect to workplace violence [section 32.0.5]. For example, workers would be required to report actual or potential hazards in the workplace relating to workplace violence to their employer or supervisor.

Other related information and instruction duties

Under the *Occupational Health and Safety Act*, an employer has a general duty to provide information, instruction and supervision to protect a worker [clause 25(2)(a)].

A supervisor has a duty to advise workers of any actual or potential occupational health and safety dangers of which the supervisor is aware [clause 27(2)(a)].

To protect workers, the employer must tailor the type and amount of information and instruction to the specific job and the associated risks of workplace violence.

Workers in jobs with a higher risk of violence may require more frequent or intensive instruction or specialized training.

An employer should identify what information, instruction or training is needed when a worker is hired. This should be done by taking into account hazards associated with each specific job as well as the measures and procedures that are in place.

Similarly, the employer should identify what information, instruction or training is needed when a worker changes jobs.

Workplace violence can be covered along with other occupational health and safety topics, including workplace harassment, or it can be covered separately. Employers should also identify how often instruction or training should be repeated.

This is addressed in more detail in the Ministry of Labour's guideline: *Understand the law on workplace violence and harassment*.

Work refusal associated with workplace violence

A worker has the right to refuse work in certain circumstances if he or she has reason to believe that workplace violence is likely to endanger himself or herself. For further details on the work refusal process, refer to Part V — Right to refuse or to stop work where health and safety in danger of this guide.

More information and resources is available on the Ministry of Labour's website on workplace violence and harassment.

Content last reviewed May 2019.

Part III.I: Codes of practice

The Minister of Labour may approve all or part of a code of practice as a way to comply with any legal requirement imposed by the *Occupational Health and Safety Act* (OHSA) or a regulation under the Act and all or part of a code of practice may be subject to terms and conditions set out in the approval. The approval of a code of practice or withdrawal of approval of a code of practice shall be published in the Ontario Gazette.

Approval of a code of practice means that the Ministry will consider compliance with the code to be compliance with its corresponding legal requirement.

This does not mean that a failure to comply with an approved code will, in itself, be considered a breach of the legal requirement.

Part IV: Toxic substances

In this part of the guide, the term "toxic substance" is used to refer to a biological, chemical or physical agent (or a combination of such agents) whose presence or use (or intended use) in the workplace may endanger the health or safety of a worker. This part also describes additional regulatory requirements relating to hazardous materials and requirements related to hazardous physical agents.

Part IV of the *Occupational Health and Safety Act* (OHSA or "the Act") deals with toxic substances and has two purposes: to ensure that worker exposure to toxic substances is controlled, and to ensure that toxic substances in the workplace are clearly identified and that workers receive enough information about them to be able to use, handle, store, and dispose of them safely.

The OHSA also sets out a process for the general public to access information about toxic substances used by regulated employers in their workplaces.

The control of toxic substances

There are several ways that worker exposure to toxic substances can be controlled under the OHSA.

Regulations for designated substances

The OHSA enables the Lieutenant Governor in Council (LGIC) to prescribe a toxic substance as a "designated substance", and to prohibit, regulate, restrict, limit or control its use, handling and removal in regulated workplaces.

Designation is typically reserved for substances known to be particularly hazardous to the health and safety of workers.

Eleven substances have been prescribed as designated substances in one regulation under the Act (*O. Reg. 490/09, Designated Substances*), including asbestos, lead, mercury and arsenic. The regulation prescribes the maximum amount of the designated substances that workers can be exposed to in a given time period and the ways to both control and assess the substances in the workplace. There is also a specific regulation relating to the designated substance asbestos on construction projects, buildings and repair operations (*O. Reg. 278/05 - Designated Substance - Asbestos on Construction Projects and in Buildings and Repair Operations*) as well as a guide to the regulation.

Regulation for control of exposure to biological or chemical agents

The OHSA enables the LGIC to regulate or prohibit the atmospheric conditions to which a worker may be exposed in the workplace. *Regulation 833: Control of Exposure to Biological or Chemical Agents, Regulation 833*, sets occupational exposure limits (OELs) for over 725 biological and chemical agents.

"Section 33" order

Where a Director of the MOL is of the opinion that a toxic substance used or intended to be used in the workplace is likely to endanger the health and safety of a worker, section 33 of the OHSA requires the Director of the Ministry of Labour to issue an order to the employer. The order must state that the use, intended use, presence or manner of use be prohibited, limited or restricted as specified, or subject to conditions regarding administrative control, work practices, engineering controls and time limits for compliance [subsection 33(1)]. Section 33 orders do not apply to designated substances [subsection 33(11)].

What happens when a section 33 order is issued?

The employer must comply with the order.

The employer must also:

- give a copy of the order to the joint health and safety committee (JHSC), or health and safety representative and trade union, if any
- post in a conspicuous place a copy of the order in the workplace where it is most likely to come to the attention of the workers who may be affected by the use, presence, or intended use of the toxic substance [subsection 33(3)].

Can an employer appeal a section 33 order?

Yes. Within 14 days of the order being made the employer, a worker, or a trade union may appeal a s. 33 order by giving written notice to the Minister of Labour [subsection 33(4)].

The Minister may decide the appeal himself or herself or may appoint a person to determine the appeal on his or her behalf [subsection 33(5)]. There is no further appeal of this decision under the OHSA. The Minister or the appointed person has the power to suspend the operation of the order until a decision on the appeal has been made [subsection 33(9)]. He or she can also affirm or rescind the order of the Director or make a new order [subsection 33(7)].

The OHSA specifies the relevant factors the Director must consider when making an order under section 33 and by the Minister or person appointed by the Minister when determining an appeal [subsection 33(8)].

The right to know about hazardous materials

One of the three basic rights that the OHSA gives to all workers is the right to know about hazards they may be exposed to on the job. Compliance with the OHSA and WHMIS Regulation is necessary to fulfill the workers' right to know about hazardous materials in the workplace. In 1988, the OHSA was amended as part of the Canada-wide implementation of the Workplace Hazardous Materials Information System (WHMIS),ensuring employers and workers receive consistent and comprehensive health and safety information about the hazardous products they may be exposed to at work.

The main purpose of the federal WHMIS legislation is to require suppliers of hazardous products that are intended for use, handling or storage in a workplace, to classify those products and provide health and safety information about them to their customers. The main purpose of provincial and territorial WHMIS legislation is generally to require employers to obtain health and safety information about hazardous products from their suppliers (labels and safety data sheets), and to use that information to provide worker education.

Canada has adopted international standards for classifying hazardous materials and providing information on labels and safety data sheets. These standards are part of the Globally Harmonized System for the Classification

and Labelling of Chemicals (GHS) that was generally phased in across Canada. The original WHMIS requirements are generally referred to as WHMIS 1988 and the new ones are called WHMIS 2015.

Implementation of the system was generally phased in across Canada between February 2015 and December 2018. Amendments have been made to applicable sections of the Ontario *Occupational Health and Safety Act* and to *Regulation 860: Workplace Hazardous Materials Information System* (WHMIS) to transition to WHMIS 2015. Effective December 1, 2018, employers subject to Regulation 860 should be in compliance with WHMIS 2015.

Refer to the Ontario government website for an electronic copy of the regulation, *Reg. 860: Workplace Hazardous Materials Information System (WHMIS)*.

While the OHSA uses the term "hazardous materials," the term "hazardous products" is used in Regulation 860 (WHMIS) to align with language in the federal WHMIS legislation. Regulation 860 designates all hazardous products as hazardous materials for the purposes of the OHSA so that provisions in the OHSA related to "hazardous materials" apply.

Employer's responsibilities concerning hazardous materials

In addition to general employer duties under the OHSA, an employer has specific duties in the OHSA relating to hazardous materials, including the duty to:

- identify hazardous materials in the prescribed manner, e.g., labels [clause 37(1)(a), OHSA]
- obtain or prepare (as may be prescribed) current Safety Data Sheets (SDSs) for all hazardous materials in the workplace [clause 37(1)(b), OHSA]
- ensure workers who are exposed or likely to be exposed to hazardous materials and hazardous physical agents receive, and that the workers participate in, prescribed instruction and training [subsection 42(1), OHSA]
- assess all biological and chemical agents that the employer produces for its own use to determine if they are hazardous materials [subsection 39(1), OHSA, and section 3, WHMIS Regulation]

Prescribed information related to hazardous materials are set out in Regulation 860 (WHMIS), which includes more detailed requirements related to worker education, labelling and safety data sheets, among other things.

References to the WHMIS Regulation in this guide pertains to Ontario *Regulation 860: Workplace Hazardous Materials Information System (WHMIS)*.

Employers are required to ensure that hazardous materials are not handled, used or stored at a workplace unless the prescribed requirements relating to identification, SDSs and worker instruction and training are met [subsection 37(3) of the OHSA].

Where an employer is unable to obtain a required label or SDS after making reasonable efforts to do so, he or she is required to notify a Director of the MOL, in writing [subsection 37(4) of the OHSA].

In general, the WHMIS Regulation applies to hazardous products at a workplace and does not include hazardous products being transported or handled according to the requirements in the *Dangerous Goods Transportation Act* (Ontario) or the federal *Transportation of Dangerous Goods Act, 1992*. If a hazardous product is repackaged (assembled, labelled or re-labelled), processed or used, WHMIS requirements may apply. For further details, refer to the relevant legislation.

Identifying hazardous materials

The employer must ensure that all hazardous materials in the workplace are identified in the prescribed manner and must obtain or prepare, as prescribed, a current SDS for all hazardous materials present in the workplace

[clauses 37(1)(a) and (b) of the OHSA].

The employer shall ensure that the SDS is in English and any other prescribed languages [clause 37(1)(c) of the OHSA].

No one is permitted to remove or deface the identification of a hazardous material, including a label or a safety data sheet [subsection 37(1) of the OHSA].

An employer must make certain that a hazardous material is not used, handled or stored at a workplace unless the prescribed requirements regarding identification, SDSs and worker instruction and training are met [subsection 37(3), of the OHSA].

In many situations, the supplier label is the worker's first warning on a hazardous product. Employers who buy the hazardous product should understand the obligations of suppliers who sell it to them. Under WHMIS, employers must ensure that hazardous products received from suppliers are labelled with supplier labels and employers must obtain the supplier SDS.

Suppliers must also provide new data about hazardous products to employers in certain circumstances. Where an employer receives such new data, the employer must, as soon as practicable, attach the new information to every relevant supplier label and update the supplier SDS [subsections 8(5) and 17(2), WHMIS Regulation]. Supplier labels and supplier SDS must also be in English and French, separately or together.

Providing Safety Data Sheets (SDSs)

The employer has a duty to either obtain or prepare current SDSs for all hazardous materials present in the workplace [clause 37(1)(b)].

The employer is required to update the SDS as soon as it is practicable, but not later than 90 days after significant new data about the hazardous product becomes available to the employer [subsection 18(3), WHMIS Regulation].

The employer may store hazardous product received from a supplier without a label, without obtaining a supplier SDS, and without conducting a program of worker education about it, **only while the employer is actively seeking the supplier label and SDS from the supplier for the hazardous product** [subsection 5(1), WHMIS Regulation]. This is not intended to be a method allowing for permanent storage without proper labelling, etc.

The employer may also store employer-produced hazardous products without applying a label or using other identification, without an SDS and without conducting a program of worker education while the employer is actively seeking information required to produce the workplace label and an SDS [subsection 5(2), WHMIS Regulation]. If, after making reasonable efforts, the employer is unable to obtain an SDS or label, the employer must notify a Director of the MOL in writing [subsection 37(4) of the OHSA].

Similar to requirements for the label, where the employer produces the hazardous product at the workplace, the employer is required to prepare an SDS that meets the federal WHMIS requirements under the Canadian Hazardous Products Regulations for an SDS [subsection 18(1), WHMIS Regulation].

Upon request of the parties noted below, an employer who produces a hazardous product in a workplace is required to disclose as quickly as possible under the circumstances, the source of any toxicological data used by the employer to prepare an SDS. The parties that can request the employer to disclose the source of toxicological data include an inspector, a worker at the workplace, a member of the JHSC, a health and safety representative or, where there is no JHSC or health and safety representative, a worker representative [section 25, WHMIS Regulation].The employer may withhold confidential business information (e.g. a valid trade secret) in certain circumstances.

For the purposes of clause 25 (2) (b) of the OHSA, in a medical emergency, an employer is required to provide information, including confidential business information, upon request, to a medical professional for the purpose of diagnosis or treatment [section 24, WHMIS Regulation].

No workplace label, identification or SDS is required for a fugitive emission, or for a hazardous product that exists only as an intermediate and undergoes further reaction within a process or reaction vessel, e.g., a volatile organic compound such as benzene at a chemical plant escaping due to leakage from a valve [subsection 1(2), WHMIS Regulation].).

The employer is required to make copies of current SDSs available to:

- workers
- to the JHSC or to the health and safety representative, if any
- the relevant medical officer of health of the health unit in which the workplace is located if requested or prescribed
- the local fire department if requested or prescribed
- a Director of the Ministry of Labour if requested or prescribed [subsection 38(1) of the OHSA].

Employers must also make a copy of SDSs **readily** available to those workers that may be exposed to the hazardous material to which the SDS relates [subsection 38(1)]. An electronic version of an SDS is considered a copy [subsection 38].

Wider distribution of safety data sheets is discussed later in this chapter, in the section "Public access to Safety Data Sheets."

The employer is permitted to make safety data sheets (SDSs) available to workers by means of a computer terminal, if the employer,

- takes all reasonable steps to keep the computer terminal in working order
- provides a paper copy of the SDS if requested by a worker, and
- provides training on how to access computer-stored data sheets, to all workers working with or in proximity to controlled products, and to members of the JHSC or a health and safety representative.

Worker education

The employer has a specific duty to provide prescribed instruction and training to workers who are exposed or likely to be exposed to a hazardous material or hazardous physical agent on the job [subsection 42(1) of the OHSA]. Employers are further required to ensure that workers participate in any prescribed instruction/training. This is in addition to the general employer duty to provide information, instruction and supervision to workers to protect their health and safety in clause 25(2)(a) of the OHSA.

In addition, the employer must consult the JHSC, or health and safety representative, if any, in developing and implementing prescribed instruction and training for workers exposed or likely to be exposed to a hazardous material or hazardous physical agent. [subsection 42(2) of the OHSA].

The employer must inform the workers who work with or who may be exposed in the course of his or her work to a hazardous product received from a supplier about all the hazard information received from the supplier about the hazardous product, as well as further hazard information that the employer is aware of or ought to be aware of regarding the storage, use and handling of the product [subsection 6(1), WHMIS Regulation]. In general, this refers to the information provided on supplier labels and safety data sheets, but it can also include other information such as letters from the supplier in response to inquiries from the employer.

If the employer produces the hazardous product in the workplace, the employer must inform the workers who work with or who may be exposed in the course of their work to the hazardous product about all hazard

information of which the employer is aware, or ought to be aware regarding its storage, use and handling [subsection 6(2), WHMIS Regulation].

Information that employers may wish to consider include:

- publications and computerized information available from the Canadian Centre for Occupational Health and Safety (CCOHS)
- publications available from industry or trade associations of which the employer is a member and from labour organization(s) representing workers at the workplace, and
- publications from the Ontario Ministry of Labour (MOL).

Employers must ensure that workers who work with or who may be exposed in the course of their work to a hazardous product are instructed in the following areas [subsection 7(1), WHMIS Regulation]:

- the information required on labels, and the purpose and significance of that information
- the information required on SDSs, the purpose and significance of that information
- procedures for the safe use, storage, handling and disposal of a hazardous product, including when a hazardous product is contained or transferred in a pipe, a piping system, a process vessel, a reaction vessel, or a tank car, a tank truck, an ore car, a conveyor belt or a similar conveyance
- procedures to be followed where fugitive emissions are present
- procedures to be followed in case of an emergency involving a hazardous product.

The employer must ensure that the program of worker education is developed and implemented for the employer's workplace and is related to any other training, instruction and prevention programs at the workplace [subsection 7(2), WHMIS Regulation].

An employer shall ensure, so far as is reasonably practicable, that the program of worker instruction required by subsection 7(1) results in the workers being able to use the information to protect their health and safety [subsection 7(3), WHMIS Regulation].

New biological and chemical agents

The OHSA requires that except for the purposes of research and development, no new biological and/or chemical agents shall be manufactured, distributed or supplied for commercial or industrial use in a workplace, unless:

- a written notice of intention to manufacture, distribute or supply the new agent is first submitted to a Director of the MOL
- the notice includes the ingredients of the new agent and their common or generic name(s) and their composition and properties [subsection 34 (1) of the OHSA].

Assessment for hazardous materials

The OHSA requires that, in prescribed circumstances, an employer assess all biological and chemical agents produced in the workplace for use in it, to determine if the agents are hazardous materials. This assessment must be in writing. A copy of the assessment must be made available in the workplace to allow examination by workers and provided to the JHSC or health and safety representative, if any, or to a worker selected by the workers to represent them if there is no JHSC or health and safety representative [section 39 of the OHSA].

Process for public access to Safety Data Sheets (SDSs)

The OHSA provides for the distribution of SDSs outside the workplace in certain circumstances. Specifically, upon request or where prescribed, the employer must provide the SDS to the following:

- the medical officer of health of the health unit where the workplace is located
- the local fire department
- a Director of the Ministry of Labour [subsection 38(1)]

It is through the medical officer of health that the public has access to SDSs. Upon request by any person, the medical officer of health must ask an employer to provide a copy of a current SDS or must make available a copy of any SDS requested by the person in the medical officer of health's possession [subsections 38(2) and (3)].

The medical officer of health is prohibited from disclosing the name of any person asking to see an SDS as described above [subsection 38(4)].

Confidential business information

The *Occupational Health and Safety Act* (OHSA or "the Act") provides protection for certain types of confidential business information that are prescribed by regulation. Employers may file a claim for an exemption from disclosing information that is normally required on a label or SDS or the name of a toxicological study that was used by the employer to prepare a SDS on the basis that it is confidential business information [subsection 40(1), OHSA]. An employer that claims an exemption for confidential business information will have the claim determined by Health Canada, according to procedures set out in the federal HMIRA (*Hazardous Materials Information Review Act*) [subsection 40(3), OHSA]. Where a claim is successful, an employer is not required to disclose the confidential business information on a label or SDS but must include certain information about the exemption instead [sections 20 and 21, WHMIS Regulation]. The WHMIS Regulation sets out types of information for which an employer may claim an exemption [section 19, WHMIS Regulation].

A form for the request of an exemption can be obtained by sending an email to the following address: hc.whmis.claim-demande.simdut.sc@canada.ca.

Details regarding confidential business information and the application process is on the Government of Canada website.

WHMIS enforcement

MOL is responsible for enforcement of both the federal and Ontario WHMIS legislation. This is done so that employers and suppliers will not be subject to inspections by both federal and provincial inspectors. It means that MOL inspectors monitor compliance with the federal *Hazardous Products Act* (HPA), the *Hazardous Products Regulations* (HPR), as well as the OHSA, and the WHMIS Regulation.

Hazardous physical agents

Physical agents include noise, heat, cold, vibration and radiation. Hazardous physical agents are covered by the OHSA [section 41] and in circumstances where there are no specific requirements that address the use of potentially hazardous physical agents in the workplace, employers must take every precaution reasonable in the circumstances for the protection of workers [clause 25(2)(h)], in addition to other duties in the OHSA.

Content last reviewed May 2019.

Part V: Right to refuse or to stop work where health and safety in danger

The right to refuse work

The *Occupational Health and Safety Act* (OHSA) gives a worker the right to refuse work that he or she believes is unsafe to himself/ herself or another worker. A worker who believes that he or she is endangered by workplace violence may also refuse work.

The Act sets out a specific procedure that must be followed in any work refusal. It is important that workers, employers, supervisors, members of joint health and safety committees (JHSCs) and health and safety representatives understand the procedure for a lawful work refusal.

Procedure for a work refusal

First stage

1. Worker considers work unsafe.
2. Worker reports refusal to his/her supervisor or employer. Worker may also wish to advise the worker safety representative and/or management representative. Worker stays in safe place.
3. Employer or supervisor investigates in the presence of the worker and the worker safety representative.
4. Either:
    a. **Issue resolved.** Worker goes back to work.
    b. **Issue not resolved.** Proceed to the second stage

Second stage

1. With reasonable grounds to believe work is still unsafe, worker continues to refuse and remains in safe place. Worker or employer or someone representing worker or employer calls MOL.
2. MOL Inspector investigates in company of worker, safety representative and supervisor or management representative.*
3. Inspector gives decision to worker, management representative/supervisor and safety representative in writing.
4. Changes are made if required or ordered. Worker returns to work.

* Pending the MOL investigation:

- The refusing worker may be offered other work if it doesn't conflict with a collective agreement
- Refused work may be offered to another worker, but management must inform the new worker that the offered work is the subject of work refusal. This must be done in the presence of:
    - a member of the joint health and safety committee who represents workers; or
    - a health and safety representative, or
    - a worker who because of his or her knowledge, experience and training is selected by the trade union that represents the worker or, if there is not trade union, by the workers to represent them.

Do all workers have the right to refuse unsafe work?

The right to refuse unsafe work applies to all workers other than specified types of workers in specified circumstances. For further information, please refer to subsections 43(1) and (2) of the Act.

In specified circumstances, the right to refuse unsafe work is limited for:

- police officers
- firefighters
- workers employed in the operation of correctional institutions and similar institutions/facilities
- health care workers and persons employed in workplaces like hospitals, nursing homes, sanatoriums, homes for the aged, psychiatric institutions, mental health centres or rehabilitation facilities, residential

group homes for persons with behavioural or emotional problems or a physical, mental or developmental disability, ambulance services, first aid clinics, licensed laboratories—or in any laundry, food service, power plant or technical service used by one of the above [subsection 43(2)].

When can a worker refuse to work?

A worker can refuse to work if he or she has reason to believe that:

- any machine, equipment or tool that the worker is using or is told to use is likely to endanger himself or herself or another worker [clause 43(3)(a)]
- the physical condition of the workplace or workstation is likely to endanger himself or herself [clause 43(3)(b)]
- workplace violence is likely to endanger himself or herself [clause 43(3)(b.1)]
- any machine, equipment or tool that the worker is using, or the physical condition of the workplace, contravenes the Act or regulations and is likely to endanger himself or herself or another worker [clause 43(3)(c)].

What happens when a worker refuses unsafe work?

The worker must immediately tell the supervisor or employer that the work is being refused and explain the circumstances for the refusal [subsection 43(4)].

The supervisor or employer must investigate the situation immediately, in the presence of the worker and one of the following:

- a joint health and safety committee member who represents workers, if there is one. If possible, this should be a certified member, or
- a health and safety representative, in workplaces where there is no joint health and safety committee, or
- another worker, who, because of knowledge, experience and training, has been chosen by the workers (or by the union) to represent them.

The refusing worker must remain in a safe place that is as near as reasonably possible to his or her workstation, and remain available to the employer or supervisor for the purposes of the investigation, until the investigation is completed [subsection 43(5)]. Although not stated as such in the Act, this interval is informally known as the “first stage” of a work refusal. If the situation is resolved at this point, the worker will return to work.

What if the refusing worker is not satisfied with the result of the first stage investigation?

The worker can continue to refuse the work if he or she has reasonable grounds for believing that the circumstances that caused the worker to initially refuse work continue [subsection 43(6)]. At this point, the “second stage” of a work refusal begins.

What happens if a worker continues to refuse to work?

If the worker continues to refuse to work after the completion of the employer’s investigation, the worker, the employer or someone acting on behalf of either the worker or employer must notify a Ministry of Labour inspector. The inspector will come to the workplace to investigate the refusal in consultation with the worker and the employer (or a representative of the employer). If there is a joint health and safety committee member, a worker health and safety representative or a worker selected by the worker’s trade union or, if there is no trade

union, by the workers to represent the worker, they will also be consulted as part of the inspector's investigation [subsection 43(7)].

While waiting for the inspector's investigation to be completed, the worker must remain in a safe place that is as near as reasonably possible to his or her workstation and available to the inspector for the purposes of the investigation, unless the employer assigns some other reasonable alternative work during normal working hours or gives other directions to the worker where an assignment of reasonable alternative work is not practicable [subsections 43(10) and (10.1)].

The inspector must decide whether the circumstance(s) that led to the work refusal is likely to endanger the worker (or another person). The inspector's decision must be given, in writing, to the worker, the employer, and the worker representative, if there is one. If the inspector finds that the circumstance is not likely to endanger anyone, the refusing worker is expected to return to work. If the inspector finds that the circumstance(s) is likely to endanger the worker or another person, the inspector will typically order the employer to remedy the hazard.

Can another worker be asked to do the work that was refused?

Yes. While waiting for the inspector to investigate and give a decision on the refusal, the employer or supervisor can ask another worker to do the work that was refused. The second worker must be told that the work was refused and why. This must be done in the presence of a committee member who represents workers, or a health and safety representative, or a worker representative chosen because of knowledge, experience and training [subsections 43(11) and (12)].

The second worker has the same right to refuse the work as the first worker.

Is a worker paid while refusing to work?

The Ministry is of the view that the worker is at work during the first stage of a work refusal and is entitled to be paid at his or her appropriate rate.

A person acting as a worker representative during a work refusal is paid at either the regular or the premium rate, whichever is applicable [subsection 43(13)].

Can an employer discipline a worker for refusing to work?

No. The employer is expressly prohibited from penalizing, dismissing, disciplining, suspending or threatening to do any of these things to a worker who has obeyed or sought enforcement of the OHSA [subsection 50(1)]. Please see Part VI of this guide – Reprisals by the employer prohibited – for more information.

The right to stop work

The *Occupational Health and Safety Act* permits specified persons to stop work in "dangerous circumstances".

In most cases, it takes both worker and management certified joint health and safety committee members to direct an employer to stop dangerous work (joint stoppage). One must be a certified member representing workers; the other, a certified member representing the employer. In some special cases, a single certified member may have this right. This chapter explains how and when work can be stopped.

Dangerous circumstances

Work can be stopped only in "dangerous circumstances" [subsection 44(1)].

This means a situation in which all of the following apply:

- the Act or the regulations are being contravened, and
- the contravention poses a danger or a hazard to a worker, and
- any delay in controlling the danger or hazard may seriously endanger a worker.

Limitations on the right to stop work

The right to stop work in dangerous circumstances does not apply to workplaces in which police and, firefighters are employed or to correctional institutions [clause 44(2)(a)] or to workplaces in which specified types of health workers are employed and where the work stoppage would directly endanger the life, health or safety of another person [clause 44(2)(b)].

Joint right to stop work

If a certified member of the joint health and safety committee has reason to believe that "dangerous circumstances" exist, he or she may ask a supervisor to investigate. The supervisor must do so promptly and in the presence of the certified member who made the request. This certified member may be one representing either the workers or the employer [subsection 45(1)].

What happens if the certified member has reason to believe that the dangerous circumstances continue to exist?

If the certified member believes that dangerous circumstances still exist after the conclusion of the supervisor's investigation and any remedial action taken, he or she may ask another certified member (who represents the other workplace party) to investigate [subsection 45(2)]. The second certified member must do so promptly and in the presence of the first certified member [subsection 45(3)].

The second certified member must represent the other workplace party. For example, if the first certified member represents workers, the second must represent the employer.

In prescribed instances, a certified member who represents the constructor or employer but who is not available at the workplace, may designate another person to act for him or her in a work stoppage under section 45 [subsection 45(9)].

What happens if both certified members agree that dangerous circumstances exist?

The certified members can direct the employer to stop the work or to stop using any part of the workplace or any equipment, machinery, tools, etc. [subsection 45(4)].

The employer must comply with this direction immediately and must ensure that compliance is achieved in a way that does not endanger anyone [subsection 45(5)].

After taking steps to remedy the dangerous circumstances, the employer may request the certified members of the joint health and safety committee who issued the stop work direction, or a Ministry of Labour inspector, to cancel it [subsection 45(7)]. Only the certified members who issued the direction or a Ministry of Labour inspector may cancel it [subsection 45(8)].

What if the certified members do not agree with each other that dangerous circumstances exist?

If the certified members disagree, either member may ask a ministry inspector to investigate. The Act requires the inspector to investigate and provide both certified members with his or her written decision

[subsection 45(6)].

Unilateral work stoppage

Application to the Ontario Labour Relations Board

If any certified member in the workplace, or a Ministry of Labour inspector has reason to believe that the procedure for joint stoppage of work will not be sufficient to protect the workers from serious risk to their health or safety, he or she may apply to the Ontario Labour Relations Board (OLRB) for a specified declaration or recommendation against the employer [subsection 46(1)], which are described in greater detail below.

Role of the OLRB

In this type of application, the OLRB, using prescribed criteria, must determine if the employer has failed to protect the health and safety of workers. The criteria to be used by the OLRB are prescribed in the O. Reg. 243/95, Criteria To Be Used And Other Matters To Be Considered By The Board Under Subsection 46 (6) of Act [subsection 46(6)].

If the OLRB finds that the procedure for joint stoppage of work is not sufficient to protect the workers, it may do one or both of the following:

- declare that the employer is subject to the procedure for individual stoppage of dangerous work (explained below) for a specified period [clause 46(5)(a)]
- recommend to the Minister that an inspector be assigned, for a specified period, to oversee the health and safety practices of the employer. The inspector can be assigned on a part time or full time basis for a specified period of time [clause 46(5)(b)].

The decision of the OLRB on an application is final [subsection 46(7)].

Procedure for the unilateral right to stop dangerous work

This procedure applies to a constructor or employer against whom the OLRB has issued a declaration under section 46 of the Act. It also applies to an employer who has advised the joint health and safety committee, in writing, that he or she voluntarily adopts the following procedure [subsection 47(1)].

If a certified member finds that dangerous circumstances exist, he or she can direct the employer to stop work or to stop using any part of the workplace or any equipment, machinery, tools, etc. [subsection 47(2)].

The employer must comply immediately and must achieve compliance in a way that does not endanger anyone [subsection 47(3)].

After stopping the work, the constructor or employer must promptly investigate in the presence of the certified member [subsection 47(4)].

After taking steps to remedy the dangerous circumstances, the employer can ask the certified member, or an inspector, to cancel the direction [subsection 47(6)]. The certified member, who made the direction or an inspector may cancel it [subsection 47(7)].

A certified member who receives a complaint that dangerous circumstances exist is entitled to investigate the complaint and to be paid for the time spent in exercising powers and performing duties during work stoppages.

Responsible use of the right to stop work

Where a constructor, employer, worker in the workplace or representative of a trade union in the workplace has reasonable grounds to believe that the certified member recklessly or in bad faith exercised, or failed to exercise powers under section 45 or section 47 to stop work in dangerous circumstances, he or she may file a complaint with the OLRB The complaint must be filed within 30 days of the event to which the complaint relates. The Minister may be a party to these proceedings before the OLRB.

The Board is required to make a decision in respect of the complaint and may make any order that it considers appropriate (including the decertification of a certified member.)

The decision of the OLRB is final.

Part VI: Reprisals by the employer prohibited

The *Occupational Health and Safety Act* (OHSA) prohibits employers from penalizing workers in reprisal for obeying the law or exercising their rights.

Under section 50 of the OHSA, an **employer** cannot

- dismiss (or threaten to dismiss) a worker
- discipline or suspend a worker (or threaten to do so)
- impose (or threaten to impose) any penalty upon a worker, or
- intimidate or coerce a worker…

because a **worker** has

- followed the OHSA and regulations
- exercised rights under the OHSA, including the right to refuse unsafe work
- asked the employer to follow the OHSA and regulations.

A **worker** also cannot be penalized for

- providing information to a Ministry of Labour inspector
- following a Ministry of Labour inspector's order, or
- testifying at a hearing about OHSA enforcement
    - in court
    - before the Ontario Labour Relations Board
    - before the Human Rights Tribunal of Ontario or similar organization
    - at a coroner's inquest
    - at a grievance arbitration, and
    - in certain other hearings.

Workers

A worker who believes that the employer has reprised against him or her may file a complaint with the Ontario Labour Relations Board (OLRB). A unionized worker may choose to ask the union to file a grievance under the collective agreement or to seek its help in filing a complaint directly on the worker's behalf with the OLRB.

Alternatively, a worker claiming to have been fired in an OHSA-related reprisal may consent to having a Ministry of Labour inspector refer the reprisal allegation to the OLRB, if

- the allegation has not already been dealt with by arbitration, and
- the worker has not filed a complaint to the OLRB.

The inspector will also provide copies of the referral to the employer, trade union (if any) and other organizations affected by the alleged reprisal. However, the Ministry of Labour will not act as the worker's representative.

The Ministry of Labour will also investigate the health and safety concerns related to a reprisal complaint or referral.

The OLRB can look into a worker's complaint or a referral from the Ministry of Labour and try to mediate a settlement between the workplace parties. If a settlement cannot be reached, the OLRB may hold a consultation or hearing. The OLRB may make orders to

- remove or change any penalty the employer may have imposed
- reinstate/rehire the worker, and/or
- compensate the worker for related losses.

The OLRB will provide forms for filing reprisal complaints.

The Office of the Worker Adviser (OWA) or the Toronto Workers' Health & Safety Legal Clinic can provide workers with free advice on filing complaints and representation at mediations and hearings before the OLRB.

Employers

If there is an allegation of reprisal before the OLRB, it's up to the employer to refute it. The Office of the Employer Adviser (OEA) can provide free assistance and representation at mediations and hearings before the OLRB to employers with fewer than 50 employees. Also, employers can contact the Law Society of Upper Canada, which will put them in touch with a lawyer who may provide a free initial consultation.

For information resources related to reprisals refer to Appendix C.

Part VII: Notices

Notices required from employers

For detailed information regarding notices and prescribed information that may apply to your workplace, refer to the Ministry of Labour (MOL) website, titled "Reporting Workplace Incidents or Structural Hazards".

Notices of death or injury

If a person, whether a worker or other person, has been critically injured or killed at the workplace, the employer and constructor, if any, must immediately notify, by telephone or other direct means:

- a Ministry of Labour (MOL) inspector (report the incident to the Ministry of Labour's Health and Safety Contact Centre at **1-877-202-0008**. The employer or constructor can make a report to this number **at any time of day**)
- the joint health and safety committee (JHSC) or health and safety representative, if any, and
- the trade union, if there is one.

Within 48 hours, the employer must also send a written report to a Director of the Ministry, setting out the circumstances of the occurrence containing the information and particulars (or details) that may be prescribed [subsection 51(1)]. Please consult the applicable sector regulation to determine what information is required.

Self-employed people are required to notify a Director of the MOL, in writing, if they sustain an occupational injury or illness.

Notice of accident, explosion, fire or violence causing injury

If an accident, explosion, fire or incident of workplace violence occurs at the workplace, and as a result, a person needs medical attention or is disabled from doing his or her usual work, but no one dies or is critically injured as a result of the occurrence, the employer must:

- provide written notice to the JHSC (or health and safety representative) and the trade union, if any, within four days of the incident, and
- make sure that the notice contains any prescribed information and particulars [section 52(1)]
- provide the notice to a Director of the Ministry if required by an inspector.

If the injury took place on a construction project or at a mine or mining plant, additional notification rules may apply depending on the type of event.

Depending on the workplace, you may be required to keep a record of the incident in your permanent records.

Occupational illness

If an employer is informed that a worker has an occupational illness or that a claim for an occupational illness has been filed with the Workplace Safety and Insurance Board (WSIB) in respect of an occupational illness, the employer must:

- provide written notice to a Director of the MOL, the JHSC (or health and safety representative) and the trade union, if any, within four days, and
- make sure that the notice contains any prescribed information and particulars [subsection 52(2)]
- provide the written notice not only for current workers of the employer but also to former ones [subsection 52(3)].

Accident, etc., at project site or mine

When specified incidents occur, such as an accident, premature or unexpected explosion, fire, flood, or inrush of water, failure of any equipment, machine, device, article or thing, a cave-in, subsidence or rockburst, the constructor of a project or the employer of a worker who works in a mine or plant or certain persons prescribed for prescribed locations, are required to provide written notice of the occurrence, containing prescribed information and particulars to a Director of the MOL, unless a report under section 51 or a notice under section 52 has already been given to a Director, the JHSC (or health and safety representative) and the trade union, if any, within two days. The notice must contain any prescribed information [section 53]. An example of an accident or unexpected event in this situation could be an explosion that occurred in which no one was injured.

Employers who do not own the workplace, i.e., those who lease or rent the workplace from an owner, are required to notify a Director of the MOL if a JHSC or a health and safety representative, if any, has identified potential structural inadequacies of a building, structure, or any part thereof, or any other part of a workplace, whether temporary or permanent, as a source of danger or hazard to workers [clause 25(2)(n) and subsection 25(5)].

A structural inadequacy could be an issue with part of the workplace building or structure that may be faulty and/or unsafe due to:

- damage
- distress
- deterioration or instability of a roof, wall, beam or support
- severe watertightness issues such as a failed waterproofing system

This could include the building or any other part of the workplace, whether temporary or permanent.

In addition to notice requirements in sections 51, 52 and 53, the regulations may specify additional notice requirements that must be met in the circumstances described in those sections, including specifying who is required to provide the notice, the timeframe in which it shall be provided and any other information and particulars it must contain [section 53.1].

Notices of project

In prescribed circumstances, a constructor may also be required to give written notice to the MOL, containing prescribed information, before work begins on a project [subsection 23(2)].

Content last reviewed May 2019.

Part VIII: Enforcement

Where workplace parties do not voluntarily comply with the *Occupational Health and Safety Act* (OHSA) and regulations, the Ministry may exercise its administrative and/or regulatory enforcement powers. Enforcement may include the issuance of requirements or administrative orders against the non-compliant workplace party and where appropriate may result in a regulatory prosecution under the *Provincial Offences Act* (POA).

Ministry of Labour health and safety inspectors are typically appointed as Provincial Offences Officers under the POA. Their powers include the following:

- proactive and reactive inspections of provincially regulated workplaces
- issuance of requirements or administrative orders where there is a contravention of the OHSA or its regulations
- investigation of critical injuries, fatalities, work refusals and health and safety complaints, and,
- initiate prosecution under the POA in respect of offences under the OHSA and/or its regulations.

A prosecution may be initiated when the inspector has reasonable and probable grounds to believe that a workplace party has committed an offence. This means that prosecutions may be commenced against any workplace party who commits an offence.

Workplace inspections

Workplace inspections are carried out by Ministry of Labour health and safety inspectors to ensure compliance with the *Occupational Health and Safety Act* and regulations and to ensure that the internal responsibility system is working. During inspections, inspectors may provide workplace parties with compliance assistance, such as referring them to the relevant health and safety association for information about specific areas of occupational health and safety.

How often are inspections conducted?

It depends on a variety of factors, such as the type of workplace, its size and its past health and safety record. Inspections may also be conducted in response to a specific complaint about a workplace. In the case of a complaint, the Ministry does not disclose any information about the identity of the complainant.

The inspection involves a thorough examination of the physical condition of the workplace by the inspector, who is usually accompanied by both employer and worker health and safety representatives or members of the joint health and safety committee.

What are some of the powers of an inspector?

The inspector has various powers, including the authority to:

- enter any workplace without a warrant or notice [clause 54(1)(a)]
- question any person, either privately or in the presence of someone else, who may be connected to an inspection, examination or test [clause 54(1)(h)]
- handle, use or test any equipment, machinery, material or agent in the workplace and take away any samples [clauses 54(1)(b) and (e)]
- look at any documents or records and take them from the workplace in order to make copies [clauses 54(1)(c) and (d)]. The inspector must provide a receipt for the removed documents and return them promptly after making copies
- take photographs [clause 54(1)(g)]
- require that any part of a workplace, or the entire workplace, not be disturbed for a reasonable period of time in order to conduct an examination, inspection or test [clause 54(1)(i)]
- require that any equipment, machinery or process be operated or set in motion or that a system or procedure be carried out that may be relevant to an examination, inquiry or test [clause 54(1)(j)]
- look at and copy any material concerning a worker training program [clause 54(1)(p)] or be able to attend the training programs
- direct a joint health and safety committee member representing workers, or a health and safety representative, to inspect the workplace at specified intervals [section 55]
- require the employer, at his or her expense, to have an expert test and provide a report on any equipment, machinery, materials, agents, etc. [clause 54(1)(f)]
- require the employer, at his or her expense, to have a professional engineer test any equipment or machinery and verify that it is not likely to endanger a worker [clause 54(1)(k)], and stop the use of anything, pending such testing [clause 54(1)(l)], and
- require an owner, constructor or employer to provide, at his or her expense, a report from a professional engineer that assesses the structural soundness of a workplace [clause 54(1)(m)].

It is important to note that an inspector may only enter a private dwelling or part of a dwelling that is actually being used as a workplace with the consent of the occupier or under the authority of a warrant issued by a court under the OHSA or the Provincial Offences Act.

Who can accompany the inspector?

In addition to persons selected by the employer, the employer has a duty to afford a worker representative the opportunity to accompany the inspector during an inspection. This person may be a worker member of the joint health and safety committee, a health and safety representative, or another knowledgeable and experienced worker (selected by the union, if there is one) [subsection 54(3)]. This worker is considered to be at work during the inspection and must be paid at the applicable rate of pay.

If there is no such worker representative, during the inspection the inspector must endeavour to talk to a reasonable number of workers about their health and safety concerns during the inspection [subsection 54(4)].

The inspector may also be accompanied by a person with special, expert or professional knowledge. For example, an inspector may bring an engineer into a workplace to test machinery for purposes of operator safety [clause 54(1)(g)].

Everyone in the workplace is expected to co-operate

The Act prohibits any person from obstructing, hindering, molesting or interfering with an inspector or attempting to do so while the inspector is exercising powers or performing duties under the Act,[subsection 62(1)]. Moreover, the Act requires every person to assist an inspector in the exercise of his or her powers and duties and in the execution of a search warrant.

It is an offence to interfere in any way with an inspector. This includes giving false information, failing to give required information or interfering with any monitoring equipment left in the workplace.

Inspector's orders

The inspector will issue written orders to the employer to comply with the law within a certain time period or, if the hazard is imminent, to comply immediately or stop work. An inspector's order can require the employer to submit a plan to the ministry, specifying when and how he or she will comply with the order. An inspector may also make written observations for improved health and safety practices.

Stop work orders

Where an order has been issued to correct a contravention of the Act or regulations, and the contravention in question is dangerous to the health or safety of a worker, the inspector may also order that:

- any place, equipment, machinery, material, process, etc., not be used until the order has been complied with [clause 57(6)(a)]
- the work be stopped [clause 57(6)(b)] until the stop work order is cancelled or withdrawn by the inspector
- the workplace be cleared of workers and access to the workplace be prevented until the hazard is removed [clause 57(6)(c)]. No worker can be required or permitted to enter the workplace except to remove the hazard, and then only if the worker is protected from the hazard [section 58], and
- any hazardous material not be used [subsection 57(8)].

Where the inspector has stopped work, the employer may resume work, or the use of any equipment, machinery, etc., before a further inspection under the following two conditions:

- the employer has notified an inspector that the order has been complied with, and
- a joint health and safety committee member representing workers or a health and safety representative advises an inspector that, in his or her opinion, the order has been complied with [subsection 57(7)].

Employer's notice of compliance with an order

If an inspector has issued an order to an employer to remedy a contravention of the Act or regulations, the employer must send written notification to the Ministry within three days of when the employer believes the order has been complied with [subsection 59(1)].

This notice must be signed by the employer. It must also be accompanied by a signed statement from a worker member of the joint health and safety committee or a health and safety representative, indicating that he or she agrees or disagrees with the employer's notice of compliance with the order or a statement indicating that the member or representative has declined to sign the statement [clauses 59(2)(a) and (b)].

The joint health and safety committee member or representative can decline to sign such a statement. One reason might be that the member or representative may feel that he or she cannot properly evaluate the employer's compliance with the order. In such a case, the employer must submit, along with the compliance notification, a statement that the member or representative declined to sign the statement of agreement or disagreement [clause 59(2)(b)].

The employer must post copies of both the notice of compliance and the original order in a place where they are most likely to be seen by workers. The notice must be posted for 14 days following its submission to the Ministry [subsection 59(3)].

The employer's notice of compliance to the Ministry of Labour does not mean that compliance with an order has been achieved. Compliance with an order can be determined only by a Ministry inspector [subsection 59(4)].

Posting orders and reports in the workplace

When an inspector issues an order or a report of the inspection, a copy of the order or report must be posted in the workplace, where it is most likely to be seen by the workers. A copy must also be given to either the joint health and safety committee or the health and safety representative [subsection 57(10)]. Where the order resulted from a complaint regarding a contravention and the complainant requests a copy, the inspector must ensure that a copy is provided to that person.

Can an inspector's orders be appealed?

Yes, any employer, constructor, licensee, owner, worker or union who is aggrieved by an inspector's order can appeal to the Ontario Labour Relations Board (OLRB) within 30 days of the order being issued [subsection 61(1)]. The party appealing can also ask the OLRB to suspend the order until the appeal has been decided. If an inspector decides not to issue an order, that decision can also be appealed [subsection 61(5)].

The OLRB will hear and make a decision on the appeal as promptly as possible under the circumstances.

In making a decision, the OLRB has all the powers of an inspector and can uphold the order of the inspector, rescind it or issue a new order. The decision of the OLRB is final.

Scene of a critical or fatal injury

If a person is critically injured or killed at a workplace, no person can alter the scene where the injury occurred in any way without the permission of an inspector.

This does not apply if it is necessary to disturb the scene in order to:

- save a life or relieve human suffering
- maintain an essential public utility service or public transportation system, or
- prevent unnecessary damage to equipment or other property [subsection 51(2)].

Part IX: Offences and penalties

The Ministry may initiate a prosecution against any regulated person (including employers, supervisors, and workers) for a contravention of the Act or the regulations, or for failing to comply with an order of an inspector, a director or the minister [subsection 66(1)]. These prosecutions are conducted by the Ministry of the Attorney General lawyers or paralegals on behalf of the Ministry of Labour.

If convicted, a court may impose a fine and/or jail term against an individual defendant. The maximum fine per charge for an individual is $100,000 and/or imprisonment for up to 12 months.

The maximum fine, which can be imposed on a corporation convicted of an offence, is $1,500,000 per charge [subsections 66(1) and (2)].

Court Bulletins reporting on some *Occupational Health and Safety Act* conviction outcomes can be viewed on the Government of Ontario website.

Part X: Regulations

The *Occupational Health and Safety Act* gives the Lieutenant Governor in Council broad powers to make regulations under the Act. The regulations relate to a range of subjects including, for example, specific

requirements for specific types of workplaces (industrial establishments, construction sites, mines and health care facilities, farming operations), designated substances, and workplace hazardous materials.

Please note that in order to determine which regulatory requirements are applicable to you and your workplace, it is recommended that you check the e-Laws website.

Appendices

Appendix A: How to prepare an occupational health and safety policy

A policy statement by the employer is an effective way to communicate the organization's commitment to worker health and safety. Senior management attitudes, relationships between employers and workers, community interests and technology all combine to play a part in determining how health and safety are viewed and addressed in the workplace.

Workplaces with exceptional health and safety records have established a clear line of responsibility for correcting health and safety concerns. This action enhances working relationships between employers and workers.

Under the *Occupational Health and Safety Act*, an employer must prepare and review at least annually a written occupational health and safety policy, and must develop and maintain a program to implement that policy [clause 25(2)(j)].

A clear, concise policy statement should reflect management's commitment, support and attitude to the health and safety program for the protection of workers. This statement should be signed by the employer and the highest level of management at the workplace, thus indicating employer and senior management commitment.

An example of a health and safety policy follows:

Health and safety policy

The employer and senior management of **[insert name of business]** are vitally interested in the health and safety of its workers. Protection of workers from injury or occupational disease is a major continuing objective.

[insert name of business] will make every effort to provide a safe, healthy work environment. All employers, supervisors and workers must be dedicated to the continuing objective of reducing risk of injury.

[insert name of business], as employer, is ultimately responsible for worker health and safety. As president **[or owner/operator, chairperson, chief executive officer, etc.,]** of **[insert name of business]**, I give you my personal commitment that I will comply with my duties under the Act, such as taking every reasonable precaution for the protection of workers in the workplace.

Supervisors will be held accountable for the health and safety of workers under their supervision. Supervisors are subject to various duties in the workplace, including the duty to ensure that machinery and equipment are safe and that workers work in compliance with established safe work practices and procedures.

Every worker must protect his or her own health and safety by working in compliance with the law and with safe work practices and procedures established by the employer. Workers will receive information, training and competent supervision in their specific work tasks to protect their health and safety.

It is in the best interest of all parties to consider health and safety in every activity. Commitment to health and safety must form an integral part of this organization, from the president to the workers.

Signed: **[name]**

Note: A workplace violence policy and a workplace harassment policy are required of all workplaces covered by Ontario's *Occupational Health and Safety Act*. Sample policies are available in the Ministry of Labour's Understand the law on workplace violence and harassment, available from ServiceOntario publications and on the Ministry of Labour internet website.

In addition to preparing a health and safety policy like the one above, the employer must also have a program in place to implement that policy. This program will vary, depending upon the hazards encountered in a particular workplace. Program elements may include all or some of the following:

1. Worker training (e.g., new workers, WHMIS, new job procedures)
2. Workplace inspections and hazard analysis
3. Analysis of the accidents and illnesses occurring at the workplace
4. A health and safety budget
5. A formal means of communication to address promptly the concerns of workers
6. Confined space entry procedure
7. Lock out procedure
8. Machine guarding
9. Material handling practices and procedures
10. Maintenance and repairs
11. Housekeeping
12. Protective equipment
13. Emergency procedures
14. First aid and rescue procedures
15. Electrical safety
16. Fire prevention
17. Engineering controls (e.g., ventilation)

Please note that this is not a comprehensive list of program elements.

Appendix B: Ministry of Labour occupational health and safety contact information and resources

Occupational health and safety

If there is an emergency occurring in your workplace, call 911 immediately.

To report critical injuries, fatalities, work refusals, health and safety complaints, or suspected unsafe work practices:

- Contact the Ministry of Labour Health & Safety Contact Centre any time at 1-877-202-0008 (toll-free).

Note that general inquiries about workplace health and safety are responded to from 8:30 a.m. – 5:00 p.m., Monday – Friday.

Health and safety resources

- Health & Safety Ontario
- Infrastructure Health & Safety Association
- Public Service Health & Safety Association
- Workplace Safety & Prevention Services
- Workplace Safety North
- Workers Health & Safety Centre
- Occupational Health Clinics for Ontario Workers

Central Region – West and East

Central Region West includes York, Peel, Dufferin and Simcoe

Central Region East includes Toronto and Durham

Western Region

Western Region includes the following counties: Brant, Bruce, Elgin, Essex, Grey, Haldimand-Norfolk, Halton, Hamilton-Wentworth, Huron, Kent, Lambton, Middlesex, Niagara, Oxford, Perth, Waterloo and Wellington

Northern Region

Northern Region includes the following counties: Algoma, Cochrane, Kenora, Manitoulin, Nipissing, Parry Sound, Rainy River, Sudbury, Thunder Bay and Timiskaming

Eastern Region

Eastern Region includes the following counties: Frontenac, Haliburton, Hastings, Lanark, Leeds & Grenville, Lennox & Addington, Muskoka, Northumberland, Ottawa-Carleton, Peterborough, Prescott & Russell, Prince Edward, Renfrew, Stormont Dundas & Glengarry and Victoria

Employment standards

All calls relating to employment standards (i.e., hours or work, overtime, public holidays, vacation, leaves of absence, termination, etc.) should be directed to:

- Employment Standards Information Centre
- GTA: 416-326-7160
- Canada-wide: 1-800-531-5551
- TTY: 1-866-567-8893

Appendix C: Information resources about reprisals

Ontario Ministry of Labour

The Ontario Ministry of Labour sets, communicates and enforces workplace standards related to occupational health and safety, employment rights and responsibilities, and labour relations. When workers allege that their employer has penalized them for exercising their rights and responsibilities under the *Occupational Health and Safety Act* (OHSA), inspectors

- investigate the workers' occupational health and safety concerns, and
- if warranted, act to address the health and safety concerns.

If a worker has been fired, inspectors may — with the worker's consent — refer the worker's description of the alleged reprisal to the Ontario Labour Relations Board (OLRB) and provide copies of the referral to the employer, the trade union (if any), and to any other organization affected by the alleged reprisal.

Health & Safety Contact Centre
1-877-202-0008 (toll-free)

The Ontario Labour Relations Board

The Ontario Labour Relations Board (OLRB) is an independent, quasi-judicial tribunal that mediates and adjudicates employment and labour relations matters under Ontario statutes. Workers who believe their employer has penalized them because they have exercised their rights and responsibilities under the OHSA can file a complaint with the OLRB. There is no fee for this. Unions may file a grievance on behalf of members under the collective agreement or help member workers complain directly to the OLRB.

- 416-326-7500 or 1-877-339-3335 (toll-free)

Workers

Office of the Worker Adviser

The Office of the Worker Adviser (OWA) is an independent agency of the Ontario Ministry of Labour. The OWA provides free advice and assistance to non-union workers who have experienced reprisal under the OHSA. OWA staff can file applications to the OLRB and provide representation to workers at mediations and hearings.

- 416-212-5335 or 1-855-659-7744 (toll-free)

Toronto Workers' Health & Safety Legal Clinic

The Toronto Workers' Health & Safety Legal Clinic provides free information, legal advice and representation to low-income workers who face health and safety problems at work, including those who have been penalized for raising health and safety concerns.

- 416-971-8832

Employers

Office of the Employer Adviser

The Office of the Employer Adviser (OEA) is an independent agency of the Ontario Ministry of Labour. The OEA provides free education, advice and representation to employers with fewer than 50 employees in responding to allegations of reprisal brought to the OLRB.

- 416-327-0020 or 1-800-387-0774 (toll-free)

Law Society of Upper Canada

The Law Society of Upper Canada has several services for finding professional legal help. The society can refer callers to a lawyer who may provide a free initial consultation.

- 416-947-3330 or 1-800-668-7380 (toll-free)

Footnotes

- [1] ^ The *Occupational Health and Safety Act* is amended from time to time.