

OCCUPATIONAL HEALTH AND SAFETY ACT

Amended: 1992 c29 s24; 1992 c42; 1996 cP-41.01 s37; 1997 c13 s49; 1998 c19 s20; 1999 c28; 2001 c10; 2004 c36 s27; 2004 c47 s27; 2004 c52; 2006 c16; 2009 c19; 2012 c38 s11; 2013 c16 s25; 2021 cR-1.01 s32; 2022 cW-11.1 s160; 2023 c15

CHAPTER O-3

AN ACT RESPECTING OCCUPATIONAL HEALTH AND SAFETY IN THE PROVINCE

Analysis

Short title	1. This Act may be cited as the <i>Occupational Health and Safety Act</i> .	1978 c23 s1	(f.1) shall respond in writing within 30 days to a recommendation of
			(i) the occupational health and safety committee at the workplace,
Definitions	2. In this Act		(ii) the worker health and safety representative at the workplace, or
			(iii) where the employer is not the workplace health and safety designate, the workplace health and safety designate at the workplace
	(a) "assistant deputy minister" means an assistant deputy minister appointed under section 9 of the <i>Executive Council Act</i> for the proper conduct of this Act;		indicating that the recommendation has been accepted or that it has been rejected, with a reason for the rejection;
			(f.2) shall provide periodic written updates to
	(b) "board" means the Labour Relations Board referred to in the <i>Labour Relations Act</i> ;		(i) the occupational health and safety committee at the workplace,
			(ii) the worker health and safety representative at the workplace, or
	(c) "committee" means an occupational health and safety committee referred to in this Act;		(iii) where the employer is not the workplace health and safety designate, the workplace health and safety designate at the workplace
			on the implementation of a recommendation accepted by the employer until the implementation is complete;
	(d) "council" means the Occupational Health and Safety Council referred to in this Act;		(f.3) shall consult with
			(i) the occupational health and safety committee at the workplace,
	(d.1) "department" means the department presided over by the minister;		(ii) the worker health and safety representative at the workplace, or
			(iii) where the employer is not the workplace health and safety designate, the workplace health and safety designate at the workplace
	(e) "division" means the Occupational Health and Safety Division;		about the scheduling of workplace inspections that are required by the regulations, and ensure that the committee, the worker health and safety representative or the workplace health and safety designate participates in the inspection; and
			(g) shall co-operate with a person exercising a duty imposed by this Act or regulations.
	(f) "employer" means a person who employs one or more workers;		1978 c23 s5; 1999 c28 s2; 2001 c10 s25; 2004 c52 s1; 2023 c15 s3
			Supervisors’ general duty
	(g) "minister" means the minister appointed under the <i>Executive Council Act</i> to administer this Act;		5.1 A supervisor shall ensure, where it is reasonably practicable, the health, safety and welfare of all workers under the supervisor's direction and control.
			2009 c19 s2; 2023 c15 s4
	(h) "occupation" means employment prescribed by the regulations as an occupation;		Specific duties of supervisors
			5.2 A supervisor shall
	(i) "officer" means an occupational health and safety officer appointed under this Act and includes a medical practitioner providing services under section 20 while the medical practitioner is providing those services;		(a) advise workers under the supervisor's direction and control of the health and safety hazards that may be met by them in the workplace;
			(b) provide proper written or oral instructions regarding precautions to be taken for the protection of all workers under the supervisor's direction and control; and
	(j) "principal contractor" means the person primarily responsible for the carrying out of a project and includes the person who owns the thing in respect of which the project is being carried out;		(c) ensure that a worker under the supervisor's direction and control uses or wears protective equipment, devices or other apparel that this Act, the regulations or the worker's employer requires to be used or worn.
			2009 c19 s2; 2023 c15 s5
	(k) "self-employed person" means a person who is engaged in an occupation on the person’s own behalf;		Workers' general duty
			6. A worker, while at work, shall take reasonable care to protect the worker’s own health and safety and that of workers and other persons at or near the workplace.
	(k.1) "supervisor" means a person authorized or designated by an employer to exercise direction and control over workers of the employer;		1978 c23 s6; 2023 c15 s6
			Specific duties of workers
	(l) "supplier" means a person who rents or leases tools, appliances or equipment to be used by a worker;		7. A worker
			(a) shall co-operate with the worker’s employer and with other workers in the workplace to protect
	(m) "worker" means a person engaged in an occupation; and		(i) the worker’s own health and safety,
			(ii) the health and safety of other workers engaged in the work of the employer,
	(n) "workplace" means a place where a worker or self-employed person is engaged in an occupation and includes a vehicle or mobile equipment used by a worker in an occupation.		(iii) the health and safety of other workers or persons not engaged in the work of the employer but present at or near the workplace;
			(a.1) shall use devices and equipment provided for the worker’s protection in accordance with the instructions for use and training provided with respect to the devices and equipment;
	1978 c23 s2; 1979 c46 s1; 1982 c39 s4; 1984 c40 Sch B; 1989 c25 Sch B; 1999 c28 s1; 2006 c16 s1; 2009 c19 s1; 2023 c15 s1		(b) shall consult and co-operate with the occupational health and safety committee, the worker health and safety representative or the workplace health and safety designate at the workplace; and
			(c) shall co-operate with a person exercising a duty imposed by this Act or regulations.
Crown bound	3. This Act binds the Crown.	1978 c23 s3	1978 c23 s7; 1999 c28 s3; 2001 c10 s26; 2004 c52 s2; 2023 c15 s7
Employers' general duty	4. An employer shall ensure, where it is reasonably practicable, the health, safety and welfare of the employer’s workers.	1978 c23 s4; 2023 c15 s2	
Specific duties of employers	5. Without limiting the generality of section 4, an employer		
	(a) shall, where it is reasonably practicable, provide and maintain a workplace and the necessary equipment, systems and tools that are safe and without risk to the health of the employer’s workers;		
	(b) shall, where it is reasonably practicable, provide the information, instruction, training and supervision and facilities that are necessary to ensure the health, safety and welfare of the employer’s workers;		
	(c) shall ensure that the employer's workers and supervisors are made familiar with health or safety hazards that may be met by them in the workplace;		
	(d) shall, where it is reasonably practicable, ensure that the employer's undertaking is conducted in a manner that does not expose other persons to health or safety hazards;		
	(e) shall ensure that the employer’s workers are given operating instruction in the use of devices and equipment provided for their protection;		
	(f) shall consult and co-operate with the occupational health and safety committee, the worker health and safety representative or the workplace health and safety designate, where the employer is not the workplace health and safety designate, on all matters respecting occupational health and safety at the workplace;		

Imminent danger

8. A worker shall not
- (a) carry out work where there exists an imminent danger to the health or safety of the worker, another worker or another person; or
 - (b) operate a tool, appliance or equipment that will create an imminent danger to the health or safety of the worker, another worker or another person.

1978 c23 s8; 2023 c15 s8

Duty of self-employed person

9. A self-employed person is bound by this Act with respect to the duties of employers or workers where these provisions are applicable.

1978 c23 s9

Duty of principal contractor

10. A principal contractor engaged in a project shall ensure, where it is reasonably practicable, that employers, workers and self-employed persons performing work in respect of that project comply with this Act and the regulations.

1978 c23 s10; 2023 c15 s9

Duty of supplier

11. A supplier shall ensure, where it is reasonably practicable, that tools, appliances or equipment supplied by that supplier

- (a) are in safe operating condition; and
- (b) comply with the standards prescribed by the regulations.

1978 c23 s11; 2023 c15 s10

Advisory council

12. The Occupational Health and Safety Council consisting of those persons who are appointed by the Lieutenant-Governor in Council is continued.

1978 c23 s12

Chairperson

13. The Lieutenant-Governor in Council may designate one of the members of the council to be chairperson and another member to be vice-chairperson.

1978 c23 s13; 2023 c15 s11

Members of council

14. (1) The council shall consist of not more than 11 members, 2 of whom shall be the assistant deputy minister and the chief executive officer of the Workplace Health, Safety and Compensation Commission.

- (2) The membership of the council is to include equal representation from labour and management.

- (3) Members are to be appointed for terms not exceeding 3 years and are eligible for reappointment for not more than 2 consecutive terms.

- (3.1) A member whose term of office has expired continues to be a member until reappointed or replaced.

- (4) The members of the council appointed prior to the coming into force of this section shall cease to hold office upon the coming into force of this section.

- (5) Notwithstanding subsection (3), at least one half of the members next appointed or reappointed following the commencement of this subsection shall be appointed for a term of 2 years and the remainder for a term of 3 years and all subsequent appointments of members to the council shall be for a term of 3 years.

1992 c29 s24; 1999 c28 s4; 2012 c38 s11; 2023 c15 s12

Remuneration of members

15. The members of the council shall be paid
- (a) the remuneration that the Lieutenant-Governor in Council may prescribe; and
 - (b) their reasonable travelling and living expenses incurred by them in the course of their duties as members of the council.

1978 c23 s15

Meetings of council

16. The council shall meet at least once yearly at the call of the minister or the chairperson, or in the absence of the chairperson, the vice-chairperson.

1978 c23 s16

Duties of council

17. (1) The council may advise the minister

- (a) on the administration of the Act and the regulations;
- (b) on occupational health and safety; and
- (c) on those other matters relating to occupational health and safety that the minister has referred to the council for its advice.

- (2) The council may advise the minister responsible for the *Radiation Health and Safety Act, 2021* on the administration and enforcement of the *Radiation Health and Safety Act, 2021* and the regulations under that Act.

1978 c23 s17; 2021 cR-1.01 s32

Subcommittees of council

18. The Lieutenant-Governor in Council may establish and appoint subcommittees of the council.

1984 c24 s1

Division continued

19. (1) The Occupational Health and Safety Division of the department is continued.

- (2) The division shall administer this Act and the regulations.

- (3) The division shall co-operate with the Workplace, Health, Safety and Compensation Commission, including the provision of information to the commission, where it is necessary for the purpose of this Act and Part II of the *Workplace, Health, Safety and Compensation Act, 2022*.

1978 c23 s18; 1984 c40 Sch B; 1989 c25 Sch B; 1998 c19 s20; 2022 cW-11.1 s160; 2023 c15 s13

Medical practitioner

20. (1) The minister may obtain the services of a medical practitioner licensed to practice medicine in a province or territory of Canada who has training and experience in occupational health and safety.

- (2) Notwithstanding subsection (1), the minister may, where the services of a medical practitioner are required under this Act, obtain the services of a qualified medical practitioner in the province who does not have training and experience in occupational health and safety.

1999 c28 s5

Occupational health and safety officers

21. (1) There may be appointed, in the manner provided by law, occupational health and safety officers of the division, and other employees who may be necessary for the administration of this Act and the regulations.

- (2) The minister may designate certain occupational health and safety officers as inspectors for the purposes of another Act or part of an Act that is to be administered by the division.

1978 c23 s21

No personal liability

22. (1) An officer is not personally liable for anything done or omitted to be done by the officer in the performance of duties under this Act or the regulations.

- (2) Notwithstanding subsection 5(4) of the *Proceedings Against the Crown Act*, the liability of the Crown in respect of anything done or omitted to be done by an officer in the performance of duties under this Act or the regulations is the same as if subsection (1) were not in force.

1979 c46 s2; 2023 c15 s14

Agreements with other governments

23. (1) The minister may, with the approval of the Lieutenant-Governor in Council, enter into an agreement with the Government of Canada or of a province or an agency or body of the Government of Canada or of the government of a province or a national or provincial body or organization specifying the terms and conditions under which persons employed by the Government of Canada or of a province, an agency or body of the Government of Canada or of a province or a national or provincial body or organization may act as officers for the purposes of this Act.

- (2) The minister may designate the officers referred to in subsection (1) as inspectors for the purposes of this or another Act that is administered by the division.

1990 c56 s1; 1992 c48 s26

Transfers to division

24. (1) The Lieutenant-Governor in Council may, by order, designate agencies, divisions or parts of other departments of government, or of another body constituted by an Act, and their employees, to become part of the division.

(2) In an order made under subsection (1) the Lieutenant-Governor in Council may make other orders that are necessary to facilitate the transfer of those employees to the division who are not at the time of their transfer members of the public service.

(3) This section is not in derogation of the powers conferred upon the Lieutenant-Governor in Council under the *Executive Council Act*.

1978 c23 s22; 1979 c51 s22; 2023 c15 s15

Duties of division

25. The division
- (a) shall be concerned with occupational health and safety and the maintenance of reasonable standards for the protection of the health and safety of workers and self-employed persons in the province;
 - (b) shall either alone or in conjunction with the Workplace Health, Safety and Compensation Commission, another department of the government, or an agency, prepare morbidity and accident statistics of workers and self-employed persons.
 - (c) [Rep. by 1998 c19 s20]
 - (d) [Rep. by 1998 c19 s20]
 - (e) [Rep. by 1998 c19 s20]

1978 c23 s23; 1998 c19 s20; 1999 c28 s6

Powers of investigation

26. (1) For the purpose of ensuring compliance with the Act or regulations and an order made under either of them, the assistant deputy minister, or an officer

- (a) may, at a reasonable hour and without prior notification, enter and inspect a workplace, with or without the help of other persons, where the assistant deputy minister or officer has reasonable grounds to believe that workers or self-employed persons work or have worked;
- (b) may require the production of records, books, plans or other documents that relate to the health and safety of workers or self-employed persons, examine them and remove them temporarily for the purposes of making copies;
- (c) may conduct tests and take photographs or recordings of the work place and an activity taking place at the workplace;
- (d) may inspect and take samples of a material, product, tool, appliance or equipment being produced, used or found in or upon the workplace; and
- (e) may make examinations and conduct investigations that the assistant deputy minister or officer considers necessary in order to determine the cause and particulars of an accident or illness occurring to a worker or self-employed person that appears to the investigator as having been caused as a result of an activity at the workplace.

(2) In conducting an investigation under this section, the assistant deputy minister or an officer has power to compel the attendance of witnesses and the production of books, documents and things, and to take evidence under oath or affirmation.

(3) At the request of an employer or principal contractor a person making an investigation under subsection (1) shall produce an identification card signed by the assistant deputy minister.

1978 c23 s24; 1982 c39 s4; 1984 c24 s2; 2023 c15 s16

Search with warrant

26.1 (1) Where the assistant deputy minister or an officer acting under this Act believes on reasonable grounds that a person is contravening or has contravened this Act the assistant deputy minister or officer may, with a warrant issued under subsection (2), enter a workplace and do those things referred to in section 26.

(2) A provincial court judge who is satisfied on oath or affirmation that there are reasonable grounds for believing that a contravention of this Act is occurring or has occurred may issue a warrant authorizing the assistant deputy minister or officer or other person named in the warrant to enter the workplace and search for and inspect anything that will provide evidence with respect to a contravention of this Act and to do those things referred to in section 26.

1999 c28 s7; 2004 c36 s27

Requirement to provide assistance

26.2 The owner or operator of a workplace and a person found there shall give the assistant deputy minister or officer reasonable help to enable the assistant deputy minister or officer to carry out duties and functions under this Act and shall provide the information that the assistant deputy minister or officer may reasonably require.

1999 c28 s7; 2023 c15 s17

Stop work orders

27. (1) Where the assistant deputy minister or an officer is of the opinion that work is being carried out in a way that the conditions at the workplace pose an immediate risk to the health and safety of workers engaged in the workplace or other persons at or near the workplace, the assistant deputy minister or officer shall, in writing, order the person at the workplace responsible for the work being carried out

- (a) to immediately stop all or a portion of the work and to vacate all or a portion of the workplace; and
- (b) before resuming the work, to take the remedial measures specified in the order that are in the opinion of the assistant deputy minister or officer necessary to ensure that the work can be conducted without further risk to the health and safety of the workers or other persons at or near the workplace.

(2) Remedial measures ordered under paragraph (1)(b) may be taken notwithstanding the stop order.

(3) Where an order to stop work made under paragraph (1)(a) is in force the employer, subject to the provisions of a collective agreement, may assign a worker directly affected by the order work that is reasonably equivalent to the work that the worker normally performs, but the employer shall continue to pay the worker the wages or salary and grant the worker the benefits that the worker would have received if the order to stop work were not in force.

1978 c23 s25; 1982 c39 s4; 1983 c59 s1; 2023 c15 s18

Remedial measures

28. Where the assistant deputy minister or an officer is of the opinion that a person is contravening this Act or the regulations the assistant deputy minister or officer shall, in writing, order that person to take the remedial measures specified in the order within the time stipulated in the order that are necessary to ensure compliance with this Act and the regulations.

1978 c23 s26; 1982 c39 s4

Order re: equipment

29. Where the assistant deputy minister or an officer is of the opinion that a tool, appliance or equipment used by a worker or self-employed person

- (a) is not in safe operating condition; or
- (b) does not comply with the standards prescribed by the regulations

the assistant deputy minister of officer shall, in writing, order the worker or self-employed person to stop using that tool, appliance or equipment and order the employer to withdraw that tool, appliance or equipment from use.

1978 c23 s27; 1982 c39 s4

Order to supplier

30. Where a tool, appliance or equipment described in section 29 is being supplied by a supplier or is being sold by a person the assistant deputy minister or officer may order the supplier or other person to stop supplying or selling the tool, appliance or equipment.

1978 c23 s28; 1982 c39 s4

Rescission of orders

31. The assistant deputy minister or officer who makes an order under sections 27 to 30 shall not rescind the order unless satisfied that the work, tool, appliance or equipment has been remedied so as not to pose a threat to the health and safety of the workers and self-employed persons engaged in the work or using the tool, appliance or equipment.

1978 c23 s29; 1982 c39 s4; 2023 c15 s19

Appeal from order

32. (1) An order made under sections 27 to 30 and section 42.2 by an officer may be appealed to the assistant deputy minister within 7 days of the order.

- (2) An appeal under subsection (1) shall be in writing.
- (3) The assistant deputy minister shall begin an investigation of the appeal within 24 hours of its receipt.
- (4) The assistant deputy minister may confirm, revoke or vary the order of the officer.

1978 c23 s30; 1982 c39 s4; 2004 c52 s3

Appeal to board

33. (1) An order made under sections 27 to 30 and section 42.2 by the assistant deputy minister or made by an officer and confirmed or varied by the assistant deputy minister under section 32 may be appealed to the board within 30 days of the order, or the confirmation or variation of an officer's order by the assistant deputy minister.

- (2) The board may confirm, revoke or vary the order of the assistant deputy minister, or the assistant deputy minister's confirmation or variation of an officer's order.
- (3) The decision of the board is final and not subject to review by a court.

1978 c23 s31; 1982 c39 s4; 2004 c52 s4; 2023 c15 s20

Effect of appeal

34. An appeal under sections 32 and 33 does not stay the order being appealed from except as ordered by the assistant deputy minister or the board.

1978 c23 s32; 1982 c39 s4

Copy of order

35. A copy of an order made under sections 27 to 30 and section 42.2 or confirmed or varied under section 32 shall be provided by the officer or assistant deputy minister to

- (a) the occupational health and safety committee at the workplace where one has been established;
- (b) the worker health and safety representative at the workplace where a representative has been elected or appointed; or
- (c) the workplace health and safety designate at the workplace where one has been designated.

2004 c52 s5

Codes of practice

36. (1) The minister may require

- (a) all employers or principal contractors;
- (b) a group or class of employers or principal contractors; or
- (c) an employer or principal contractor

to establish a code of practice, or adopt a code of practice specified by the minister.

(1.1) The minister shall sign a copy of a code the minister requires to be established or adopted under section (1) and the signed copy constitutes the official version of the code for all purposes for which the code may be required to be admitted in evidence in a judicial or other proceeding.

(1.2) The minister shall publish in the gazette a notice of a requirement to establish or adopt a code under paragraph (1)(a) or (b).

(2) The code of practice may be revised or required to be revised by the minister.

(3) The code of practice shall be posted by the employer in a prominent place at the workplace.

1978 c23 s34; 1999 c28 s8; 2023 c15 s21

Health and safety program

36.1 (1) Where 20 or more workers are employed at a workplace, the employer shall establish and maintain an occupational health and safety program in accordance with the regulations.

(2) An occupational health and safety program shall be established in consultation with the occupational health and safety committee at the workplace.

(3) An occupational health and safety program shall include those documents that may be prescribed in the regulations.

(4) An occupational health and safety program shall be in writing and shall, when requested, be provided to the occupational health and safety committee, a worker at the workplace and an officer.

2001 c10 s27; 2004 c52 s6; 2023 c15 s22

Health and safety policy

36.2 (1) Where less than 20 workers are employed at a workplace, the employer shall establish an occupational health and safety policy in accordance with the regulations.

(2) An occupational health and safety policy shall be established in consultation with the worker health and safety representative or the workplace health and safety designate and posted in a prominent place at the workplace.

2001 c10 s27; 2004 c52 s7; 2023 c15 s23

Committees

37. Where 20 or more workers are employed at a workplace, the employer shall establish an occupational health and safety committee to monitor the health, safety and welfare of the workers employed at the workplace.

1999 c28 s9; 2023 c15 s24

Membership of committees

38. (1) A committee shall consist of the number of persons that may be agreed to by the employer and the workers but shall not be less than 2 nor more than 12 persons.

(2) At least half of the members of a committee are to be persons representing the workers at the workplace who are not connected with the management of the workplace.

(3) The persons representing the workers on the committee are to be elected by other workers at the workplace or appointed in accordance with the constitution of the union of which the workers are members.

(4) Where the employer and workers cannot agree on the size of the committee, the minister may establish its size.

(5) The employer shall appoint sufficient employer representatives to ensure that the committee may function.

(6) The employer and worker members of a committee shall elect a co-chairperson from their respective groups.

(7) The employer shall post the names of the committee members in a prominent place at the workplace.

1978 c23 s36; 1978 c35 s26

Committee training

38.1 (1) Where 50 or more workers are employed at a workplace, the employer shall provide and pay for training for the members of the occupational health and safety committee at the workplace.

(2) Where 20 to 49 workers are employed at a workplace, the employer shall provide and pay for training for the co-chairpersons of the occupational health and safety committee at the workplace.

(3) The training provided under subsections (1) and (2) shall meet the requirements the Workplace Health, Safety and Compensation Commission may set.

(4) A member of the committee who is provided training under subsection (1) or (2) shall participate in the training.

(5) An employer shall compensate a worker for participating in training under this section as if the training were regular work.

2001 c10 s28; 2023 c15 s25

Duties of committees

39. A committee established under section 37

(a) shall seek to identify aspects of the workplace that may be unhealthy or unsafe;

(a.1) shall participate in a workplace inspection that an employer is required by the regulations to conduct;

(b) may make recommendations to principal contractors, employers, workers, self-employed persons and the assistant deputy minister or an officer for the enforcement of standards to protect the health, safety and welfare of workers at the workplace;

(c) shall receive complaints from workers as to their concerns about the health and safety of the workplace and their welfare;

(d) shall establish and promote health and safety educational programs for workers;

(e) shall maintain records as to the receipt and disposition of complaints received from workers under paragraph (c);

(f) shall co-operate with the assistant deputy minister or an officer who is exercising duties under the Act; and

(g) shall perform those other duties and follow those procedures that may be prescribed by the regulations.

1978 c23 s37; 1982 c39 s4; 2001 c10 s29; 2023 c15 s26

Meetings of committee

40. Meetings of a committee shall take place during regular working hours at least once every 3 months and a worker is not to suffer loss of pay or other benefits while engaged in a meeting of a committee.

1978 c23 s38

Worker representative

41. (1) Where less than 20 workers are employed at a workplace, the employer shall ensure that a worker not connected with the management of the workplace is designated as the worker health and safety representative to monitor the health, safety and welfare of workers employed at the workplace.

(2) The employer shall provide and pay for training for the worker health and safety representative.

(3) The training provided under subsection (2) shall meet the requirements the Workplace Health Safety and Compensation Commission may set.

- (4) The worker health and safety representative shall participate in the training provided under this section.
- (5) An employer shall compensate a worker for participating in training under this section as if the training were regular work.

2001 c10 s30; 2004 c47 s27; 2023 c15 s27

Election of representative

42. The worker health and safety representative is to be elected by other workers at the workplace or appointed in accordance with the constitution of the labour union of which the workers are members.

1978 c23 s40

Workplace designate

42.1 (1) Notwithstanding section 41, where less than 6 persons are engaged at a workplace and the designation of a worker health and safety representative is impracticable, the employer may designate a workplace health and safety designate to monitor the health, safety and welfare of workers employed at the workplace.

- (2) The workplace health and safety designate may be either
- (a) a worker connected with the management of the workplace; or
- (b) the employer, if the designation of a worker connected with the management of the workplace is not practicable.
- (3) The workplace health and safety designate shall be appointed by the employer.
- (4) The employer shall provide and pay for training for the workplace health and safety designate.
- (5) The training provided under subsection (4) shall meet the requirements that the Workplace Health and Safety Compensation Commission may set.
- (6) The workplace health and safety designate shall participate in the training provided under this section.
- (7) An employer shall compensate a worker for participating in training under this section as if the training were regular work.

2004 c52 s8

Order re: worker representative

42.2 Notwithstanding section 42.1, if the assistant deputy minister or an officer is of the opinion that a workplace health and safety designate cannot adequately monitor the health, safety and welfare of workers employed at the workplace, the assistant deputy minister or officer shall order, in writing, that a worker health and safety representative be designated under section 41.

2004 c52 s8

Posting name

43. The employer shall post the name of the worker health and safety representative or the workplace health and safety designate in a prominent place at the workplace.

1978 c23 s41; 2004 c52 s9

Duties of representative

44. (1) A worker health and safety representative or the workplace health and safety designate has the same duties as those imposed upon a committee under section 39, where that is reasonably practicable.
- (2) A worker health and safety representative or the workplace health and safety designate, where the workplace health and safety designate is not the employer, shall consult with the employer while performing duties under subsection (1).
- (3) Where the workplace health and safety designate is the employer, the workplace health and safety designate shall consult with the workers while performing duties under subsection (1).

1978 c23 s42; 2004 c52 s10; 2023 c15 s28

Right to refuse to work

45. (1) A worker may refuse to do work that the worker has reasonable grounds to believe is dangerous to the health or safety of the worker, another worker or another person at the workplace
- (a) until remedial action has been taken by the employer to the worker's satisfaction;
- (b) until the committee or worker health and safety representative has investigated the matter and advised the worker to return to work; or
- (c) until an officer has investigated the matter and has advised the worker to return to work.
- (2) Where a worker refuses to do work under subsection (1), the employer may reassign the worker to other work that is reasonably equivalent to work that is normally performed by the worker and the worker shall accept the reassignment until the worker is able to return to work under subsection (1).

- (3) Where a worker is reassigned to other work under subsection (2), the employer shall pay the worker the same wages or salary and grant the worker the same benefits the worker would have received had the worker continued in the worker’s normal work.

- (4) Where a worker has reasonably refused to work under subsection (1) and has not been reassigned to other work under subsection (2), the employer shall pay the worker the same wages or salary and grant the worker the same benefits the worker would have received had the worker continued to work, until the worker is able to return to work under subsection (1).

- (5) A reassignment of work under subsection (2) is not discriminatory action under section 49.

1978 c23 s43; 2023 c15 s29

Report to supervisor

46. Where a worker exercises the worker's right to refuse to work in accordance with section 45, or where the worker believes that a tool, appliance or piece of equipment, or an aspect of the workplace is or may be dangerous to the health or safety of the worker, other workers or another person at the workplace, the worker shall immediately report it to the worker's supervisor.

1978 c23 s44; 2023 c15 s30

Report to division

47. Where a worker has made a report under section 46 and the matter has not been remedied to the worker's satisfaction, the worker shall report it, either in writing or orally, to the division or an officer.

1978 c23 s45; 2023 c15 s31

Duty of worker

48. A worker shall not take advantage of the right to refuse to work under section 45 without reasonable grounds.

1978 c23 s46; 2023 c15 s32

Discriminatory action prohibited

49. An employer or union shall not take a discriminatory action against a worker by dismissing the worker or by deducting wages, salary or other benefits, or by taking other disciplinary action against the worker

- (a) because of the worker’s participation in or association with the committee, worker health and safety representative or workplace health and safety designate at the workplace, or because the worker is a worker health and safety representative or workplace health and safety designate;
- (b) because the worker has testified or is about to testify in a proceeding or inquiry under this Act or regulations;
- (c) because the worker has given information to the Workplace, Health, Safety and Compensation Commission, an officer or another person concerned with the administration of the Act or the regulations concerning the health, safety and welfare of workers at the workplace; or
- (d) because the worker has reasonably refused to work in accordance with section 45.

1978 c23 s47; 1998 c19 s20; 2004 c52 s11; 2023 c15 s33

Discrimination

50. Where disciplinary action is taken against a worker or the worker is dismissed following an act by the worker under section 49, the disciplinary action or dismissal shall be considered to be , in the absence of evidence to the contrary, discriminatory.

1978 c23 s48; 2023 c15 s34

Allegation of discrimination

51. (1) Where a worker alleges that the worker’s employer has taken discriminatory action against the worker for a reason set out in section 49, the worker may,
- (a) where a collective agreement is in force between a union, of which a worker who alleges discrimination is a member, and the employer, and the collective agreement provides for the use of a grievance procedure where discrimination is alleged, follow that grievance procedure; or
- (b) apply to the board for a determination as to whether the action was discriminatory.
- (2) Where a worker alleges that the worker’s union has taken discriminatory action against the worker for a reason set out in section 49, the worker may apply to the board for a determination as to whether the action was discriminatory.

1983 c59 s2; 2023 c15 s35

Remedies

52. (1) Where the board makes a finding that an action was discriminatory it

- (a) shall order the employer to reinstate the worker under the same terms and conditions under which the worker was formerly employed;
 - (b) shall order the employer to pay or make up to the worker lost wages, salary and other benefits;
 - (c) shall order that a reference to the dismissal or disciplinary action on the employer's records be deleted; and
 - (d) shall order the reinstatement of the worker to the worker’s trade union where the worker has been expelled by the union.
- (2) Where an order is made under this section or section 33 and is filed with the Supreme Court that order is enforceable as if it were a judgment or order of the Supreme Court.

1978 c23 s50; 2013 c16 s25; 2023 c15 s36

Occupational health services

53. (1) The minister may designate a workplace or class of workplace as one requiring an occupational health service.
- (2) Where a workplace or class of workplace has been designated under subsection (1) the employer shall establish and maintain an occupational health service.
- (3) The minister may prescribe by order the services that an occupational health service shall provide.

1978 c23 s51

Reporting accidents

54. (1) Where an accident takes place at a workplace
- (a) that results in serious injury to a person or results in the death of a person; or
 - (b) that had, or continues to have, the reasonable potential of causing serious injury to or the death of a person

the employer, or principal contractor shall immediately notify the assistant deputy minister of the accident.

- (2) Where an accident is reported under subsection (1), notification shall immediately be given to the committee, the worker health and safety representative or the workplace health and safety designate.
- (3) In this section and section 55, "serious injury" means
- (a) a fracture of the skull, spine, pelvis, femur, humerus, fibula or tibia, or radius or ulna;
 - (b) an amputation of a major part of a hand or foot;
 - (c) the loss of sight of an eye;
 - (d) a serious internal haemorrhage;
 - (e) a burn that requires medical attention;
 - (f) an injury caused directly or indirectly by explosives;
 - (g) an asphyxiation or poisoning by gas resulting in a partial or total loss of physical control; or
 - (h) another injury likely to endanger life or cause permanent injury,

but does not include injuries to a worker of a nature that may be treated through first aid or medical treatment and the worker is able to return to work either immediately after the treatment or at the worker's next scheduled shift.

1979 c46 s3; 1982 c39 s4; 2004 c52 s12; 2023 c15 s37

Scene of accident

55. Except as otherwise directed by the assistant deputy minister or an officer, a person shall not disturb the scene of an accident that results in serious injury or death except as is necessary
- (a) to attend to persons injured or killed;
 - (b) to prevent further injuries; and
 - (c) to protect property that is endangered as a result of the accident.

1978 c23 s53; 1982 c39 s4

Attendance at accident scene

56. The assistant deputy minister or an officer shall, where practicable, go to the scene of an accident reported under section 54 and may make whatever inquiries that the assistant deputy minister or officer considers necessary to determine the cause of an accident.
- 1978 c23 s54; 1982 c39 s4; 2023 c15 s38

Information

57. A person present at an accident when it occurred or who has information relating to the accident shall, upon the request of the assistant deputy minister or an officer, provide to the assistant

deputy minister or officer information respecting the accident that the assistant deputy minister or officer requests.

1978 c23 s55; 1982 c39 s4

Medical examinations

58. A medical practitioner whose services the minister has obtained under section 20 may arrange, with a worker's consent, to have the worker medically examined by another medical practitioner in order to determine
- (a) the extent of an injury suffered by a worker in the course of the worker’s occupation; or
 - (b) whether a worker is suffering from a disease that is related to the worker's occupation.

1999 c28 s10; 2023 c15 s39

When examination takes place

59. (1) A medical examination carried out under section 58, shall, where practicable, be carried out during the normal working hours of the worker.
- (2) Where a worker is examined during the worker’s normal working hours, the worker's employer shall not make deductions of wages, salary or other benefits for the time lost by the employee in going to, attending, or returning from the medical examination.

1978 c23 s57; 2023 c15 s40

Duty of physician

60. Where a physician finds that a person examined by the physician has an occupational disease the physician shall, within 7 days of the diagnosis,
- (a) notify the assistant deputy minister, in writing, of the name, address and place of employment of the person and the nature of the occupational disease; and
 - (b) notify the person examined by the physician that the person has an occupational disease and the nature of that disease.

1978 c23 s58; 1982 c39 s4; 2023 c15 s41

Rep. by 2009 c19 s3

61. [Rep. by 2009 c19 s3]

2009 c19 s3

Medical reports

62. (1) A medical practitioner who
- (a) attended a worker who became ill or was injured while engaged in an occupation; or
 - (b) performed a medical examination under section 58,

shall, where requested, provide to a medical practitioner whose services the minister has obtained under section 20 the medical reports of the worker required by that medical practitioner.

- (2) Notwithstanding the *Personal Health Information Act*, the provincial health authority shall, where requested by a medical practitioner whose services the minister has obtained under section 20, provide to that medical practitioner those records prepared by the provincial health authority required by that medical practitioner that relate to the medical treatment given to a worker who became ill or was injured while engaged in an occupation.

1999 c28 s12; 2023 c15 s42

Inquiries

63. (1) The minister may appoint a board of inquiry of one or more persons to inquire into a matter concerning the health or safety of workers employed
- (a) at a particular workplace;
 - (b) by a particular employer or group of employers; or
 - (c) in an industry.

- (2) A board of inquiry appointed under subsection (1) has the powers of a commissioner appointed under the *Public Inquiries Act, 2006*.

1978 c23 s61; 2023 c15 s43

Grant by minister

64. The minister may pay out of the money or funds referred to in section 29 of the *Workplace, Health, Safety and Compensation Act, 2022* an annual grant to an association established to promote or involved in promoting occupational health and safety in the province.

1998 c19 s20; 2022 cW-11.1 s160

Regulations

65. (1) The Lieutenant-Governor in Council may make regulations

- (a) designating an employment as an occupation;
- (b) setting out the health and safety standards to be established at workplaces or classes of workplaces;
- (b.1) respecting the preparation, content and implementation of an occupational health and safety program and an occupational health and safety policy;
- (c) respecting the working environment, workplace and safety of workers as the Lieutenant-Governor in Council considers necessary for the protection of the life and health of workers employed in or about a mine;
- (d) defining "mine";
- (e) providing for the adoption and implementation of nationally uniform standards respecting the Workplace Hazardous Materials Information System regulated under the *Hazardous Products Act* (Canada), and other applicable federal legislation;
- (f) [Rep. by 1998 c19 s20]
- (g) establishing conditions as to the design, construction and use of a plant or undertaking in order to protect the health and safety of workers;
- (h) prescribing minimum standards of the facilities for the feeding, rest, hygiene and sanitary needs of workers;
- (i) prohibiting or controlling the manufacture, supply or use of a plant, equipment or machinery;
- (j) prohibiting or controlling the manufacture, supply, storage, handling or use of a substance or material in order to protect the health and safety of workers;
- (k) imposing requirements with respect to the testing, labelling or examination of a substance or material that may affect the health and safety of workers;
- (l) controlling or prohibiting the employment in specified circumstances of a person or class of persons where it is necessary to protect their health and safety;
- (m) restricting the performance of certain tasks to persons having certain qualifications;
- (n) requiring the making of arrangements by employers for the prevention of industrial disease and for securing the health of workers, including arrangements for medical examinations and health surveys;
- (o) requiring the making of arrangements by employers for monitoring the atmospheric or other conditions of workplaces;
- (o.1) requiring an employer to identify, assess and minimize the risk of a prescribed injury or disease to workers;
- (p) prescribing standards for tools, appliances and equipment including the adoption of codes or standards, and providing for the prohibition of the sale, rental or lease of tools, appliances or equipment that do not meet the prescribed standards;
- (q) requiring and governing medical facilities or first aid facilities to be located at workplaces;
- (r) requiring the use of certain clothing and personal protection equipment by workers or classes of workers;
- (s) designating occupations as hazardous occupations;
- (t) designating a workplace or class of workplace as a hazardous workplace;
- (u) requiring the making of reports by employers to the division;
- (v) [Rep. by 1997 c13 s49]
- (w) respecting the appointment of committees to advise the minister on technical matters relating to occupational health and safety;
- (x) [Rep. by 1997 c13 s49]
- (y) prescribing records to be kept by employers and submitted to the division;
- (z) [Rep. by 1998 c19 s20] and
- (aa) generally, to give effect to the purpose of this Act.

(2) Where a regulation is made under this section requiring a worker or an applicant for employment to obtain a medical examination, the employer of the worker and the prospective employer of the applicant shall pay the fee for that examination directly to the medical examiner.

(3) The Lieutenant-Governor in Council may in addition to or instead of regulations made under subsection (1) adopt by reference and constitute as regulations the whole or part or provisions of a code adopted or standards fixed, with or without modification, and including amendments, by the Canadian Standards Association, or another standards organization acceptable to the Lieutenant-Governor in Council.

(4) A certificate of the minister that a document is a copy of a code or standard referred to in subsection (1) or an extract from, a modification of, or an amendment to, a code or standard is without further proof presumptive evidence of the content of that code or standard, or extract or amendment.

1978 c23 s63; 1979 c46 s5; 1984 c24 s4; 1987 c20 s1; 1997 c13 s49; 1998 c19 s20; 1999 c28 s13; 2001 c10 s31; 2009 c19 s4

Deviation from regulations

65.1 (1) Where an application is made in writing to the minister for authorization to deviate at a workplace from a provision of the regulations, the minister may authorize the deviation where the

minister is satisfied that the deviation affords protection for the health and safety of workers equal to or greater than the protection prescribed by the regulations from which the deviation is requested.

(2) In applying a regulation for which a deviation under subsection (1) is authorized, a deviation and any terms and conditions authorized under this section shall, while the deviation is in effect, be substituted for the prescription or requirement in the regulations.

(3) The minister may, at the minister’s initiative or upon application, reconsider, confirm, vary, revoke or suspend the minister’s decision regarding a deviation at any time when information is produced that, had it been known when the request for the deviation was determined previously, would reasonably be expected to have resulted in a different decision from the one made at that time.

1999 c28 s14; 2023 c15 s44

Rep. by 1996 cP-41.01 s37

66. [Rep. by 1996 cP-41.01 s37]

1996 cP-41.01 s37

Fees and forms

66.1 The minister may set fees and prescribe forms for the purpose of this Act.

1997 c13 s49

Offences

67. (1) A person who

- (a) contravenes this Act or the regulations;
- (b) fails to comply with an order made under this Act or the regulations; or
- (c) fails to follow a code of practice adopted or established under section 36,

is guilty of an offence.

(2) Where a person, other than a corporation, is convicted of an offence under subsection (1), the person is liable to a fine of not less than \$500 and not more than \$250,000 or to a term of imprisonment not exceeding 12 months or to both a fine and imprisonment.

(3) Where a corporation is convicted of an offence under subsection (1), the corporation is liable to a fine of not less than \$2,000 and not more than \$250,000.

(4) In addition to a fine imposed under subsection (2) or (3) the court may impose a fine not exceeding \$25,000 for each day during which the offence continues.

1999 c28 s15; 2023 c15 s45

Offence by corporation

68. Where a corporation has been convicted of an offence under section 67, an officer, director or agent of the corporation who directed, authorized, assented to, acquiesced or participated in the commission of the offence is guilty of an offence under that section.

1978 c23 s65

Powers of court on conviction

69. (1) Where a person is convicted of an offence under this Act, in addition to another punishment that may be imposed, the court may, having regard to the nature of the offence and the circumstances surrounding its commission, make an order

- (a) directing the offender to publish, in the manner directed, the facts relating to the offence;
- (b) directing the offender to pay to the minister, in the manner directed, an amount for the purpose of public education in the
 - (i) safe conduct of the activity in relation to which the offence was committed, and
 - (ii) duties and responsibilities of employers and workers under sections 5 and 7 of this Act;
- (c) on application by the minister made within 3 years after the date of conviction, directing the offender to submit to the minister the information with respect to the activities of the offender that the court considers appropriate in the circumstances;
- (d) directing the offender to perform community service, subject to the reasonable conditions that may be imposed by the order;
- (e) directing the offender to provide a bond or pay an amount of money into court that will ensure compliance with an order made under this section; and
- (f) requiring the offender to comply with the other reasonable conditions that the court considers appropriate in the circumstances for securing the offender’s good conduct and for preventing the offender from repeating the same offence or committing other offences.

(2) Where a person fails to comply with an order made under paragraph (1)(a) directing the publication of the facts relating to the offence, the minister may publish the facts in compliance with the order and recover the costs of publication from that person.

(3) Where the court makes an order under paragraph (1)(b) directing a person to pay an amount for the purpose of education or the minister incurs publication costs under subsection (2), the amount or costs constitutes a debt due to the Crown.

(4) An order made under subsection (1) comes into force on the day on which it is made or on another day that the court may order and shall not continue in force for more than 3 years after that day.

1999 c28 s16

Limitation period

70. A prosecution under this Act or the regulations shall be started within 2 years of

- (a) the date upon which the offence is alleged to have been committed; or
- (b) the date upon which an assistant deputy minister or an officer of the division becomes aware of the alleged offence,

whichever is later.

2006 c16 s2; 2023 c15 s46