

# **OCCUPATIONAL HEALTH AND SAFETY ACT**

## **Chapter O-2.1**

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#### **Definitions**

- 1 In this Act,
  - (a) “administrative penalty” means an administrative penalty required to be paid under section 68(1);
  - (b) “appeal body” means the appeal body referred to in section 71(1);
  - (c) “code of practice” means a code of practice described in section 62;
  - (d) “competent” in relation to a person, means adequately qualified, suitably trained and with sufficient experience to safely perform work without supervision or with only a minimal degree of supervision;

- (e) “consult” or any similar term or word means
  - (i) the sharing of relevant information with or seeking information or advice from affected persons,
  - (ii) giving affected persons a reasonable opportunity to express their views, and
  - (iii) taking those views and that information and advice into account;
- (f) “contractor” means a person, partnership or group of persons who, through a contract, an agreement or ownership, directs the activities of one or more employers or self-employed persons involved in work at a work site;
- (g) “Council” means the Occupational Health and Safety Advisory Council appointed under section 38;
- (h) “custodian” means a person defined as a custodian under the *Health Information Act*;
- (i) “Director” means a Director of Inspection, a Director of Medical Services or a Director of Occupational Hygiene;
- (j) “Director of Inspection” means a person appointed under section 42 as a Director of Inspection;
- (k) “Director of Medical Services” means a physician appointed under section 42 as a Director of Medical Services;
- (l) “Director of Occupational Hygiene” means a person appointed under section 42 as a Director of Occupational Hygiene;
- (m) “discriminatory action” means any action or threat of action by a person that does or would adversely affect a worker with respect to any terms or conditions of employment or opportunity for promotion, and includes termination, layoff, suspension, demotion or transfer of a worker, discontinuation or elimination of a job, change of a job location, reduction in wages, change in hours of work, reprimand, coercion, intimidation or the imposition of any discipline or other penalty;
- (n) “employer” means
  - (i) a person who employs or engages one or more workers, including a person who employs or engages workers from a temporary staffing agency,

- (ii) a person designated by an employer as the employer's representative, or
- (iii) a director or officer of a corporation or a person employed by the employer who oversees the occupational health and safety of the workers employed by the corporation or employer;
- (o) "equipment" means any mechanical or non-mechanical article or device, and includes any machine, tool, appliance, apparatus, implement or other thing used in the carrying out of work, but does not include the personal property owned by an individual unless that property is used in the carrying out of work;
- (p) "family member", in relation to a shareholder, sole proprietor or partner, means
  - (i) the spouse or adult interdependent partner of the shareholder, sole proprietor or partner, or
  - (ii) whether by blood, marriage or adoption or by virtue of an adult interdependent relationship, a child, parent, grandparent, sibling, aunt, uncle, niece, nephew or first cousin of the shareholder, sole proprietor or partner or of the shareholder's, sole proprietor's or partner's spouse or adult interdependent partner,and includes any other person prescribed by the regulations to be a family member;
- (q) "harassment" means any single incident or repeated incidents of objectionable or unwelcome conduct, comment, bullying or action by a person that the person knows or ought reasonably to know will or would cause offence or humiliation to a worker, or adversely affects the worker's health and safety, and includes
  - (i) conduct, comment, bullying or action because of race, religious beliefs, colour, physical disability, mental disability, age, ancestry, place of origin, marital status, source of income, family status, gender, gender identity, gender expression and sexual orientation, and
  - (ii) a sexual solicitation or advance,but excludes any reasonable conduct of an employer or supervisor in respect of the management of workers or a work site;

- (r) “harmful substance” means a substance that, because of its properties, application or presence, creates or could create a danger, including a chemical, biological or radiological hazard, to the health and safety of a worker exposed to it;
- (s) “hazard” means a situation, condition or thing that may be dangerous to health and safety;
- (t) “hazardous occupation” means an occupation designated in the regulations or the OHS code as a hazardous occupation;
- (u) “hazardous work site” means a work site designated in the regulations or the OHS code as a hazardous work site;
- (v) “health and safety” includes physical, psychological and social well-being;
- (w) “health and safety program” means a co-ordinated system of procedures, processes and other measures that is designed to be implemented by organizations in order to promote continuous improvement in occupational health and safety;
- (x) “health and safety representative” means a worker representative designated under section 17;
- (y) “health services provider” means
  - (i) a health services provider under the *Health Information Act*, or
  - (ii) an individual or organization that reviews, interprets or assesses in an occupational setting
    - (A) results from a drug or alcohol test performed on a bodily substance from an individual worker or group of workers,
    - (B) results from medical, health or biological monitoring of an individual worker or group of workers, or
    - (C) results from medical or health surveillance of an individual worker or group of workers;
- (z) “joint work site health and safety committee” means a committee established pursuant to section 16;
- (aa) “licence” means a licence, certificate or permit issued under this Act, the regulations or the OHS code;

- (bb) “manufacturer’s specifications” means the written specifications, instructions or recommendations, if any, of the manufacturer of equipment or supplies that describes how the equipment or supplies are to be used, erected, installed, assembled, started, operated, handled, stored, stopped, calibrated, adjusted, maintained, repaired, dismantled or disposed of, including a manufacturer’s instructions, operating or maintenance manual or drawings for the equipment or supplies;
- (cc) “mine” means a working, other than a drill hole made while exploring for a mineral, from which coal, precious or semi-precious minerals, industrial minerals, oil sands or any other material is being extracted;
- (dd) “mine site” means a location at which a facility for extracting a mineral by underground, strip, open pit or quarry operations exists or is to be developed, and includes
- (i) a mineral processing plant, storage facility or discard disposal facility that exists or is to be developed in connection with a mine, and
  - (ii) all connected access roads;
- (ee) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (ff) “notice of administrative penalty” means a notice given under section 68(1);
- (gg) “notifiable disease” means a disease or a state of ill health designated in the regulations or the OHS code as a notifiable disease;
- (hh) “occupation” means every occupation, employment, business, calling or pursuit over which the Legislature has jurisdiction, except
- (i) farming and ranching operations that are specified in the regulations and in respect of which
    - (A) no wages, as defined in the *Employment Standards Code*, are paid to persons for the performance of farming or ranching work, or
    - (B) wages, as defined in the *Employment Standards Code*, are paid only to the following persons for the performance of farming or ranching work:



- (I) shareholders of a corporation engaged in a farming or ranching operation of which all shareholders are family members of the same family;
- (II) family members of a shareholder of a corporation engaged in a farming or ranching operation of which all shareholders are family members of the same family;
- (III) family members of a sole proprietor engaged in a farming or ranching operation;
- (IV) family members of a partner in a partnership engaged in a farming or ranching operation where all partners are family members of the same family,

and

- (ii) work in, to or around a private dwelling or any land used in connection with the dwelling that is performed by an occupant or owner who lives in the private dwelling, unless
  - (A) the work is performed for an employer who is not an occupant or owner who lives in the private dwelling, or
  - (B) the work is performed by a person who lives in the private dwelling and is employed by or on behalf of an occupant or owner who lives in the private dwelling;
- (ii) “occupational disease” means a disease or state of ill health arising out of or related to an occupation;
- (jj) “officer” means a Director or a person appointed under section 42 as an occupational health and safety officer;
- (kk) “OHS code” means the OHS code made by the Minister under section 86(1), including any secondary code adopted or incorporated as referred to in section 86(2) that is relevant to the circumstances in question;
- (ll) “owner” means the person who is registered under the *Land Titles Act* as the owner of the land on which work is being carried out or may be carried out, or the person who enters into an agreement with the owner to be responsible for meeting the owner’s obligations under this Act, the

regulations and the OHS code, but does not include a person who occupies land or premises used as a private residence unless a business, trade or profession is carried on in that premises;

- (mm) “police officer” means a member of the Royal Canadian Mounted Police or a member of a municipal police service;
- (nn) “previous Act” means the *Occupational Health and Safety Act*, RSA 2000 cO-2, as it read immediately before the coming into force of this clause;
- (oo) “prime contractor” means the prime contractor for a work site referred to in section 10;
- (pp) “project” means
  - (i) the construction, demolition, repair, alteration or removal of a structure, building, complex, street, road or highway, pipeline, sewage system or electric, telecommunication or transmission line,
  - (ii) the digging of, working in or filling of a trench, excavation, shaft or tunnel,
  - (iii) the installation, modification, repair or removal of any equipment, machinery or plant,
  - (iv) the operation of a manufacturing, industrial or other process, or
  - (v) any work designated by a Director of Inspection or a Director of Occupational Hygiene as a project;
- (qq) “self-employed person” means a person who is engaged in an occupation but is not in the service of an employer for that occupation;
- (rr) “service provider” means a person who provides training, consulting, testing, program development or other services in respect of any occupation, project or work site;
- (ss) “specifications”, other than manufacturer’s specifications, includes the written instructions, procedures, drawings or other documents of a professional engineer or other person designated in the regulations or the OHS code relating to equipment, supplies and a work process or operation;
- (tt) “supervisor” means a person who has charge of a work site or authority over a worker;

- (uu) “supplier” means a person who sells, rents, leases, erects, installs or provides any equipment or who sells or otherwise provides any harmful substance or explosive to be used by a worker in respect of any occupation, project or work site;
- (vv) “temporary staffing agency” means a person who retains workers and deploys or facilitates the placement of those workers with other employers;
- (ww) “the regulations” means the regulations under section 85;
- (xx) “train” or any similar term or word means to give information and explanation to a worker with respect to a particular subject-matter and to require a practical demonstration that the worker has acquired knowledge or skill related to the subject-matter;
- (yy) “violence”, whether at a work site or work-related, means the threatened, attempted or actual conduct of a person that causes or is likely to cause physical or psychological injury or harm, and includes domestic or sexual violence;
- (zz) “welfare” means the conditions or facilities, in or near a work site, provided for the feeding, rest, hygiene or sanitary requirements of a worker;
- (aaa) “worker” means a person engaged in an occupation, including a person who performs or supplies services for no monetary compensation for an organization or employer and, for greater certainty, includes a self-employed person, but does not include
  - (i) a student in learning activities conducted by or within an educational institution for which no compensation is paid to the student, or
  - (ii) except for the purpose of section 5(a) and (b), the following persons engaged in a farming and ranching operation specified in the regulations or the OHS code:
    - (A) a person to whom no wages, as defined in the *Employment Standards Code*, are paid for the performance of farming or ranching work;
    - (B) a person referred to in clause (hh)(i)(B)(I) to (IV) to whom wages, as defined in the *Employment Standards Code*, are paid for the performance of farming or ranching work;

- (bbb) “work site” means a location where a worker is, or is likely to be, engaged in any occupation and includes any vehicle or mobile equipment used by a worker in an occupation.

### **Purposes of this Act**

**2** The purposes of this Act are

- (a) the promotion and maintenance of the highest degree of physical, psychological and social well-being of workers,
- (b) to prevent work site incidents, injuries, illnesses and diseases,
- (c) the protection of workers from factors and conditions adverse to their health and safety,
- (d) to ensure that all workers have
  - (i) the right to be informed of work site hazards and the means to eliminate or control those hazards,
  - (ii) the right to meaningful participation in health and safety activities pertaining to their work and work site, including the ability to express health and safety concerns,
  - (iii) the right to refuse dangerous work, and
  - (iv) the ability to work without being subject to discriminatory action for exercising a right or fulfilling a duty imposed by this Act, the regulations or the OHS code.

## **Part 1 Obligations of Work Site Parties**

### **Obligations of employers**

**3(1)** Every employer shall ensure, as far as it is reasonably practicable for the employer to do so,

- (a) the health and safety and welfare of
  - (i) workers engaged in the work of that employer,
  - (ii) those workers not engaged in the work of that employer but present at the work site at which that work is being carried out, and

- (iii) other persons at or in the vicinity of the work site who may be affected by hazards originating from the work site,
  - (b) that the employer's workers are aware of their rights and duties under this Act, the regulations and the OHS code and of any health and safety issues arising from the work being conducted at the work site,
  - (c) that none of the employer's workers are subjected to or participate in harassment or violence at the work site,
  - (d) that the employer's workers are supervised by a person who
    - (i) is competent, and
    - (ii) is familiar with this Act, the regulations and the OHS code that apply to the work performed at the work site,
  - (e) that the employer consults and cooperates with the joint work site health and safety committee or the health and safety representative, as applicable, to exchange information on health and safety matters and to resolve health and safety concerns,
  - (f) that health and safety concerns raised by workers, supervisors, self-employed persons and the joint work site health and safety committee or health and safety representative are resolved in a timely manner, and
  - (g) that on a work site where a prime contractor is required, the prime contractor is advised of the names of all of the supervisors of the workers.
- (2)** Every employer shall ensure that workers are adequately trained in all matters necessary to protect their health and safety, including before the worker
- (a) begins performing a work activity,
  - (b) performs a new work activity, uses new equipment or performs new processes, or
  - (c) is moved to another area or work site.
- (3)** Every employer shall cooperate with any person exercising a duty imposed by this Act, the regulations and the OHS code.
- (4)** Every employer shall comply with this Act, the regulations and the OHS code.

**Obligations of supervisors****4** Every supervisor shall

- (a) as far as it is reasonably practicable for the supervisor to do so,
  - (i) ensure that the supervisor is competent to supervise every worker under the supervisor's supervision,
  - (ii) take all precautions necessary to protect the health and safety of every worker under the supervisor's supervision,
  - (iii) ensure that a worker under the supervisor's supervision works in the manner and in accordance with the procedures and measures required by this Act, the regulations and the OHS code,
  - (iv) ensure that every worker under the supervisor's supervision uses all hazard controls, and properly uses or wears personal protective equipment designated or provided by the employer or required to be used or worn by this Act, the regulations or the OHS code, and
  - (v) ensure that none of the workers under the supervisor's supervision are subjected to or participate in harassment or violence at the work site,
- (b) advise every worker under the supervisor's supervision of all known or reasonably foreseeable hazards to health and safety in the area where the worker is performing work,
- (c) report to the employer a concern about an unsafe or harmful work site act that occurs or has occurred or an unsafe or harmful work site condition that exists or has existed,
- (d) cooperate with any person exercising a duty imposed by this Act, the regulations and the OHS code, and
- (e) comply with this Act, the regulations and the OHS code.

**Obligations of workers****5** Every worker shall, while engaged in an occupation,

- (a) take reasonable care to protect the health and safety of the worker and of other persons at or in the vicinity of the work site while the worker is working,

- (b) cooperate with the worker's supervisor or employer or any other person for the purposes of protecting the health and safety of
  - (i) the worker,
  - (ii) other workers engaged in the work of the employer, and
  - (iii) other workers not engaged in the work of that employer but present at the work site at which that work is being carried out,
- (c) at all times, when the nature of the work requires, use all devices and wear all personal protective equipment designated and provided for the worker's protection by the worker's employer or required to be used when worn by the worker by this Act, the regulations or the OHS code,
- (d) refrain from causing or participating in harassment or violence,
- (e) report to the employer or supervisor a concern about an unsafe or harmful work site act that occurs or has occurred or an unsafe or harmful work site condition that exists or has existed,
- (f) cooperate with any person exercising a duty imposed by this Act, the regulations and the OHS code, and
- (g) comply with this Act, the regulations and the OHS code.

**Obligations of suppliers****6(1)** Every supplier shall

- (a) as far as it is reasonably practicable for the supplier to do so, ensure that any equipment that the supplier supplies is in safe operating condition,
- (b) as far as it is reasonably practicable for the supplier to do so, ensure that any harmful substance the supplier supplies is safe to use, when used in accordance with the manufacturer's specifications,
- (c) as far as it is reasonably practicable for the supplier to do so, if the supplier has responsibility under an agreement to maintain equipment, ensure that the equipment is maintained in a safe condition, in accordance with the manufacturer's specifications, if any, and in compliance with this Act, the regulations and the OHS code,

- (d) as far as it is reasonably practicable for the supplier to do so, provide a notice to all of the employers supplied by the supplier with equipment, or to the purchasers or lessees of the equipment, when the supplier becomes aware or ought reasonably to be aware that the equipment that was supplied or is about to be supplied does not comply with a standard prescribed under the regulations or the OHS code,
- (e) as far as it is reasonably practicable for the supplier to do so, provide a notice to all of the employers supplied by the supplier with a harmful substance when the supplier becomes aware or ought reasonably to be aware that the harmful substance that was supplied or is about to be supplied does not comply with a standard prescribed under the regulations or the OHS code,
- (f) cooperate with any person exercising a duty imposed by this Act, the regulations and the OHS code, and
- (g) comply with this Act, the regulations and the OHS code.

**(2)** Subject to subsection (1)(d) and (e), every supplier shall ensure that any equipment or harmful substance that the supplier supplies complies with this Act, the regulations and the OHS code.

#### **Obligations of service providers**

**7(1)** Every service provider shall ensure, as far as it is reasonably practicable for the service provider to do so, that any service provided to a person to meet an obligation in the Act, the regulations or the OHS code will enable the person to comply with this Act, the regulations and the OHS code.

**(2)** Every service provider shall

- (a) ensure that all services provided in respect of a work site comply with the Act, the regulations and the OHS code,
- (b) ensure that services provided to a person to meet an obligation in the Act, the regulations or the OHS code are completed by workers who are competent to provide those services,
- (c) ensure that, as far as it is reasonably practicable for the service provider to do so, no person at or near a work site is endangered as a result of the service provider's activity,
- (d) cooperate with any person exercising a duty imposed by this Act, the regulations and the OHS code, and



- (e) comply with this Act, the regulations and the OHS code.

**Obligations of owners****8** Every owner shall

- (a) ensure, as far as it is reasonably practicable to do so, that the land, infrastructure and any building or premises on the land that is under the owner's control is provided and maintained in a manner that does not endanger the health and safety of workers or any other person,
- (b) cooperate with any person exercising a duty imposed by this Act, the regulations and the OHS code, and
- (c) comply with this Act, the regulations and the OHS code.

**Obligations of contractors****9(1)** Every contractor shall ensure, as far as it is reasonably practicable to do so, that

- (a) every work site where an employer, employer's worker or self-employed person works pursuant to a contract with the contractor, and
- (b) every work process or procedure performed at a work site by an employer, employer's worker or self-employed person pursuant to a contract with the contractor

that is under the control of the contractor does not create a risk to the health and safety of any person.

**(2)** Every contractor shall

- (a) if the contractor is on a work site that has a prime contractor, advise the prime contractor of the name of every employer or self-employed person with whom the contractor directs the work activities,
- (b) cooperate with a person exercising a duty imposed by this Act, the regulations and the OHS code, and
- (c) comply with this Act, the regulations and the OHS code.

**Obligations of prime contractors****10(1)** Every construction and oil and gas work site or a work site or class of work sites designated by a Director must have a prime contractor if there are 2 or more employers or self-employed

persons, or one or more employers and one or more self-employed persons involved in work at the work site.

**(2)** The person in control of the work site shall designate in writing a person as the prime contractor of the work site.

**(3)** The name of the prime contractor must be posted in a conspicuous place at the work site.

**(4)** If the person in control of the work site fails to designate a person as the prime contractor as required in subsection (2), the person in control of the work site is deemed to be the prime contractor.

**(5)** The prime contractor shall

- (a) establish, as far as it is reasonably practicable to do so, a system or process that will ensure compliance with this Act, the regulations and the OHS code in respect of the work site,
- (b) coordinate, organize and oversee the performance of all work at the work site to ensure, as far as it is reasonably practicable to do so, that no person is exposed to hazards arising out of, or in connection with, activities at the work site,
- (c) conduct the prime contractor's own activities in such a way as to ensure, as far as it is reasonably practicable to do so, that no person is exposed to hazards arising out of, or in connection with, activities at the work site,
- (d) consult and cooperate with the joint work site health and safety committee or health and safety representative, as applicable, to attempt to resolve any health and safety issues,
- (e) coordinate the health and safety programs of employers and self-employed persons on the work site, if 2 or more employers or self-employed persons or one or more employers and one or more self-employed persons on the work site have a health and safety program,
- (f) cooperate with any other person exercising a duty imposed by this Act, the regulations and the OHS code, and
- (g) comply with this Act, the regulations and the OHS code.

**(6)** If a requirement in this Act, the regulations or the OHS code imposes a duty on an employer or a self-employed person with

respect to equipment, work site infrastructure or an excavation and the equipment or infrastructure is designed, constructed, erected or installed, or the excavation is conducted by or on behalf of a prime contractor, the prime contractor shall comply with the requirement as if the requirement were directly imposed on the prime contractor.

(7) Subsection (6) does not relieve the employer, self-employed person or prime contractor from fulfilling other responsibilities under this Act, the regulations and the OHS code.

#### **Obligations of self-employed persons**

**11** Every self-employed person shall

- (a) conduct the self-employed person's work so as to ensure that the self-employed person or any other person is not exposed to hazards from activities at the work site,
- (b) when working on a project that has a prime contractor, advise the prime contractor that the self-employed person is working on the project,
- (c) if a requirement of this Act, the regulations or the OHS code imposes a duty on an employer or a worker, comply with the requirement as if the requirement were directly imposed on the self-employed person, with any necessary modifications,
- (d) report, to the extent that it is reasonably practicable to do so, to all affected employers and self-employed persons at the work site a concern about an unsafe or harmful work site act that occurs or has occurred or an unsafe or harmful work site condition that exists or has existed,
- (e) cooperate with any other person exercising a duty imposed by this Act, the regulations and the OHS code, and
- (f) comply with this Act, the regulations and the OHS code.

#### **Obligations of temporary staffing agencies**

**12** Every temporary staffing agency shall

- (a) ensure, as far as it is reasonably practicable for the temporary staffing agency to do so,
  - (i) that the worker to be assigned to another employer is suitable to perform the task for which the worker is to be assigned,

- (ii) that the worker is equipped with any necessary personal protective equipment prior to deployment to the other employer, or will be so equipped prior to commencing work activities with the other employer, and
  - (iii) that the other employer is capable of ensuring the health and safety of the worker,
- (b) cooperate with any other person exercising a duty imposed by this Act, the regulations and the OHS code, and
  - (c) comply with this Act, the regulations and the OHS code.

#### **Multiple obligations**

**13(1)** In this section, “function” means the function of prime contractor, owner, contractor, employer, supervisor, service provider, supplier, worker, self-employed person or temporary staffing agency.

**(2)** If a person has 2 or more functions under this Act in respect of one work site, the person shall meet the obligations of each function.

**(3)** If one or more provisions in this Act, the regulations or the OHS code imposes the same duty on more than one person and one of the persons subject to that duty complies with the applicable provision, the other persons subject to that duty are relieved of their duty only during the time when

- (a) simultaneous compliance of that duty by more than one person would result in unnecessary duplication of effort and expense, and
- (b) the health and safety of any person at the work site is not put at risk by compliance with that duty by only one person.

## **Part 2**

### **Availability of Information**

#### **Duty to provide information**

**14(1)** In this section, “health and safety information” means information that may affect the health and safety of a person at a work site and includes information about hazards at the work site, hazard controls and work practices and procedures, but does not include personal information about an identifiable individual, confidential proprietary information or trade secrets.

- (2) Every employer shall keep readily available all health and safety information and provide that information to
- (a) the joint work site health and safety committee or health and safety representative at the work site,
  - (b) the workers, if there is no joint work site health and safety committee and no health and safety representative, and
  - (c) the prime contractor, if there is one.
- (3) Every employer shall ensure that current paper or downloaded or stored electronic copies of this Act, the regulations and the OHS code are readily available for reference by workers, the joint work site health and safety committee and the health and safety representative, if one exists.
- (4) Every prime contractor or contractor shall ensure that the owner and any employer, supplier, service provider or self-employed person on a work site is informed of any existing or potential work site hazards that may affect workers, self-employed persons or other persons at the work site.
- (5) Every owner shall ensure that any hazard identified by the owner is communicated to all workers, employers, self-employed persons, contractors, prime contractors, suppliers and service providers that are conducting work activities, or may be reasonably anticipated to conduct work activities, in relation to the land, infrastructure and any building or premises on the land.
- (6) Every supplier shall, as far as it is reasonably practicable for the supplier to do so,
- (a) ensure that any equipment is supplied with a written copy of the manufacturer's specifications and any other instructions for safe use, as applicable, if such specifications and instructions exist, and
  - (b) ensure that any harmful substance the supplier supplies is supplied with a written copy of the manufacturer's specifications and instructions for safe use, as applicable, if such specifications and instructions exist.
- (7) If a person is required to make a report or plan under this Act, the regulations or the OHS code, the person shall ensure that the report or plan is in writing and a paper or downloaded or stored electronic copy of the report or plan is readily available for reference by workers, the joint work site health and safety committee and the health and safety representative, if there is one, at the work site affected by the report or plan.

**(8)** If a person is required to develop procedures or to put procedures in place under this Act, the regulations or the OHS code, the person shall ensure that they are in writing and a paper or downloaded or stored electronic copy of the current procedures is readily available for reference by workers, the joint work site health and safety committee and the health and safety representative, if there is one, at the work site affected by the procedures.

#### **Posting orders and notices**

**15(1)** An employer, self-employed person, owner or prime contractor shall post a copy of the following at a work site:

- (a) an order made under this Act to that employer, self-employed person, owner or prime contractor that is relevant to the work site;
- (b) a health and safety notice prepared by or for a Director concerning conditions or procedures at the work site.

**(2)** The employer, self-employed person, owner, or prime contractor referred to in subsection (1) shall post the copy in a conspicuous place at the work site as soon as the employer, self-employed person, owner or prime contractor receives it.

**(3)** The employer, self-employed person, owner or prime contractor referred to in subsection (1) shall keep an order or notice issued under this Act posted until the conditions specified in the order or notice are met.

**(4)** Despite subsections (1) to (3), the employer, self-employed person, owner or prime contractor referred to in subsection (1) may provide the orders and notices in electronic format providing workers, the joint work site health and safety committee or health and safety representative, if there is one, are informed of the orders and notices and have ready access to them.

**(5)** Despite subsections (1) to (3), if the work site is mobile and posting is impracticable, the employer, self-employed person, owner or prime contractor referred to in subsection (1) shall ensure that the information in the order or the notice is brought to the attention of all affected workers at the work site.

**Part 3**  
**Joint Work Site Health and**  
**Safety Committees and**  
**Health and Safety Representatives**

**Establishment of joint work site health and safety committee**

**16(1)** An employer shall establish a joint work site health and safety committee

- (a) if the employer employs 20 or more workers and work is expected to last 90 days or more, or
- (b) at any other work site designated by a Director.

**(2)** If there are 20 or more workers in total from 2 or more employers or employers and self-employed persons or one or more employers and one or more self-employed persons at a work site and the work is expected to last 90 days or more, the prime contractor or, if there is no prime contractor, all employers and self-employed persons shall coordinate the establishment of a joint work site health and safety committee for that work site.

**(3)** The joint work site health and safety committee shall establish rules of procedure for fulfilling its duties under section 19.

**(4)** The Director may issue an approval to an employer or a prime contractor to establish a joint work site health and safety committee otherwise required by subsections (1) and (2) with variations regarding the practice and procedures of a committee from the provisions otherwise applicable under this Act, the regulations and the OHS code.

**(5)** In considering whether to issue the approval under subsection (4), the Director shall take into account

- (a) the nature of the work performed at the work site,
- (b) the level of support of the variations by workers or unions representing workers at the work site,
- (c) the frequency of injury or illness at the work site or in the industry in question, and
- (d) any additional criteria set out in the regulations or the OHS code.

**Designation of health and safety representative**

**17(1)** Unless a Director approves an alternative measure to ensure the health and safety of workers, an employer shall designate a

worker appointed or selected under subsection (2) as a health and safety representative

- (a) if the employer employs 5 to 19 workers and work is expected to last 90 days or more, or
- (b) at any other work site designated by a Director.

**(2)** A health and safety representative shall be appointed in accordance with the constitution of the union that is the certified bargaining agent or has acquired bargaining rights on behalf of those workers or, if no such union exists, be selected by the workers the representative represents.

**(3)** If there are 5 to 19 workers in total from 2 or more employers or employers and self-employed persons or one or more employers and one or more self-employed persons at a work site and the work is expected to last 90 days or more, the prime contractor or, if there is no prime contractor, all employers and self-employed persons shall coordinate the designation of a health and safety representative for that work site.

#### **Determination of number of workers**

**18** For the purpose of calculating the number of workers in sections 16 and 17, the number of workers must be determined by the average number of full-time and part-time workers employed by the employer and self-employed persons at the work site on a daily basis on each working day

- (a) over the previous 12 months if operations began at least 12 months prior to the calculation,
- (b) since operations began if operations began less than 12 months prior to the calculation, or
- (c) expected to be present over the duration for a new operation lasting 90 days or more but less than 12 months.

#### **Duties of a joint work site health and safety committee**

**19** The duties of a joint work site health and safety committee include the following:

- (a) the receipt, consideration and disposition of concerns and complaints respecting the health and safety of workers;
- (b) participation in the identification of hazards to workers or other persons arising out of or in connection with activities at the work site;



- (c) the development and promotion of measures to protect the health and safety of persons at the work site and checking the effectiveness of such measures;
- (d) cooperation with an officer exercising duties under this Act, the regulations and the OHS code;
- (e) the development and promotion of programs for education and information concerning health and safety;
- (f) the making of recommendations to the employer, prime contractor or owner respecting the health and safety of workers;
- (g) the inspection of the work site at regular intervals;
- (h) the participation in investigations of serious injuries and incidents at the work site in accordance with section 40;
- (i) the maintenance of records in connection with the receipt and disposition of concerns and complaints and the attendance to other matters relating to the duties of the committee;
- (j) such other duties as may be specified in this Act, the regulations and the OHS code.

#### **Duties of a health and safety representative**

**20** The health and safety representative shall, in cooperation with a representative of the employer, perform the same duties, with any necessary modifications, as set out for the joint work site health and safety committees in section 19.

#### **Employer and prime contractor to work with committee or representative**

**21(1)** If the joint work site health and safety committee or health and safety representative brings a health and safety matter to the attention of the employer, self-employed person or prime contractor, and makes recommendations to remedy the matter,

- (a) if the matter can be resolved by the employer, self-employed person or prime contractor within 30 days, the employer, self-employed person or prime contractor shall do so and inform the committee or representative,
- (b) if the matter cannot be resolved by the employer, self-employed person or prime contractor within 30 days, the employer, self-employed person or prime contractor

shall respond in writing, stating how the concern will be addressed and when the concern will be addressed, including

- (i) a timetable for implementing changes to address the matter, and
- (ii) any interim control measures that the employer, self-employed person or prime contractor will implement to address the matter,

or

- (c) if the employer, self-employed person or prime contractor disagrees with any recommendations or does not accept or believe there are any health and safety concerns, the employer, self-employed person or prime contractor shall give reasons why the employer, self-employed person or prime contractor disagrees with any recommendations or does not accept or believe there are any health and safety concerns.

**(2)** Where the parties cannot resolve a problem or address a concern after the provision of written reasons by the employer, self-employed person or prime contractor under subsection (1), the employer, self-employed person, prime contractor, joint work site health and safety committee, a member of the joint work site health and safety committee or the health and safety representative may refer the matter to an officer.

**(3)** Nothing in this section limits the right of a worker to refer a health and safety concern directly to an officer.

#### **Membership of joint work site health and safety committee**

**22(1)** A joint work site health and safety committee shall consist of at least 4 persons, of whom at least half represent workers who are not associated with the management of the work site, and

- (a) are appointed
  - (i) in accordance with the constitution of the union that is the certified bargaining agent or that has acquired bargaining rights on behalf of those workers, or
  - (ii) if more than one union represents the workers, in accordance with an agreement among all of those unions,

or

(b) where no union exists, are persons selected by the workers they represent.

(2) A joint work site health and safety committee shall have 2 co-chairs, one chosen by the employer members on the committee and the other chosen by the worker members on the committee.

(3) The co-chairs required by subsection (2) shall alternate in serving as chair at meetings of the joint work site health and safety committee and shall participate in all decisions of the committee.

(4) To be eligible to be appointed or selected as a worker member, a person must work at the work site where the joint work site health and safety committee is established, or in the case of an employer who operates at multiple work sites, be a worker directly employed by the employer.

(5) Employer members of a joint work site health and safety committee must be appointed to the committee by the employer or prime contractor, as applicable.

(6) To be eligible to be appointed as an employer member, a person must be employed at the work site where the joint work site health and safety committee is established or in the case of an employer who operates at multiple work sites, be a person directly employed by the employer.

#### **Posting names of committee members and representative**

**23(1)** The employer or, if there is a prime contractor, the prime contractor shall ensure that the names and contact information of the joint work site health and safety committee members are posted conspicuously at every work site where workers are represented by the committee.

(2) The employer or, if there is a prime contractor, the prime contractor shall ensure that the name and contact information of the health and safety representative is posted conspicuously at every work site where workers are represented by the representative.

#### **Term of office**

**24(1)** Members of a joint work site health and safety committee or a health and safety representative hold office for a term of not less than one year and may continue to hold office until their successors are selected or appointed.

(2) Despite subsection (1), if a union exists and the union's constitution specifies a term of office for worker members of the

joint work site health and safety committee or the health and safety representative, the term of office of the worker member or the health and safety representative is the term specified in the union's constitution, or if more than one union represents the workers, in accordance with an agreement among all of those unions.

#### **Inspection of work site with officer**

**25** When an officer inspects a work site, the officer may request the joint work site health and safety committee co-chairs or their designates or a health and safety representative to be present at that inspection.

#### **Quorum**

**26(1)** A quorum of a joint work site health and safety committee is one-half of the members if

- (a) both worker and employer members are present, and
- (b) at least one-half of those present are worker members.

**(2)** Any business of a joint work site health and safety committee that is transacted where a quorum is not present is not validly transacted, and any meeting of a committee that is held where a quorum is not present is not a valid meeting of the committee.

#### **Meetings of joint work site health and safety committee**

**27(1)** The joint work site health and safety committee shall meet within 10 days of its establishment and thereafter at least quarterly.

**(2)** A joint work site health and safety committee shall hold its meetings and carry out its duties and functions during normal working hours.

**(3)** Either co-chair of a joint work site health and safety committee may call a special meeting of the committee to deal with urgent concerns at the work site.

**(4)** A joint work site health and safety committee must convene a special meeting if requested to do so by an officer.

**(5)** The co-chairs of a joint work site health and safety committee must ensure that

- (a) minutes of each meeting of the committee are recorded,

- (b) copies of the minutes approved by the committee are given to the employer within 7 days after the day the meeting was held, and
  - (c) copies of the minutes approved by the committee are posted or provided by electronic means at the work site within 7 days after the day the meeting was held.
- (6) The employer or, if there is a prime contractor, the prime contractor shall maintain a copy of the minutes for 2 years and have them readily available for inspection by a joint work site health and safety committee member or an officer.
- (7) The employer or, if there is a prime contractor, the prime contractor shall maintain a copy of any other relevant health and safety documents produced by the joint work site health and safety committee and have them readily available for inspection by a committee member or an officer.

#### **Meetings of employer and health and safety representative**

- 28(1)** At a work site where a health and safety representative is designated, an employer, or a prime contractor if there is a prime contractor, shall meet with the representative regularly to discuss health and safety matters.
- (2) A health and safety representative may call a special meeting with an employer or a prime contractor to deal with urgent concerns at the work site.

#### **Training of committee members and representatives**

- 29(1)** Where a joint work site health and safety committee is established, an employer or prime contractor, as applicable, shall ensure that the co-chairs of the committee receive training respecting the duties and functions of a committee.
- (2) Where a health and safety representative is designated, an employer shall ensure that the representative receives training respecting the duties and functions of a representative.
- (3) Where a member of a joint work site health and safety committee or a health and safety representative gives reasonable notice, an employer shall permit the member or representative to take time away from the member's or the representative's regular duties to attend health and safety training programs, seminars or courses of instruction.

- (4) The amount of time allowed annually for training under subsections (1), (2) and (3) is the greater of
- (a) 16 hours, or
  - (b) the number of hours the worker normally works during 2 shifts.

**Time away for committee or representative work and entitlement to pay**

**30(1)** A member of a joint work site health and safety committee or a health and safety representative is entitled to take the following time away from the member's or the representative's regular duties:

- (a) the period of time that the committee or representative determines is necessary to prepare for each committee meeting or meeting with the employer or prime contractor as applicable;
- (b) the time required to attend each meeting of the committee, or with the employer or prime contractor, as applicable;
- (c) the time required to attend health and safety training, as approved by the committee and the employer, or by the representative's employer;
- (d) such time as the committee or representative determines is necessary to carry out the member's or the representative's duties as a committee member or representative under this Act, the regulations and the OHS code.

(2) A member of a joint work site health and safety committee or a health and safety representative is deemed to be at work during the times described in subsection (1) and is entitled to be paid for those times by the member's or the representative's employer at the member's or representative's applicable rate of pay.

## **Part 4 Dangerous Work and Discriminatory Action**

**Right to refuse dangerous work**

**31(1)** Subject to this section and section 5, a worker may refuse to work or to do particular work at a work site if the worker believes on reasonable grounds that there is a dangerous condition at the work site or that the work constitutes a danger to the worker's

health and safety or to the health and safety of another worker or another person.

(2) A worker who refuses to work or to do particular work under subsection (1) shall promptly report the refusal and the reasons for it to the worker's employer or supervisor or to another person designated by the employer or supervisor.

(3) If the employer does not remedy the dangerous condition immediately, the employer shall immediately inspect the dangerous condition in the presence of the worker, when it is reasonably practicable to do so and when the presence of the worker does not create a danger to the health and safety of that worker or of any other person, and one of the following persons, when it is reasonably practicable to do so and when the presence of that person does not create a danger to the health and safety of that person or of any other person:

- (a) if there is a joint work site health and safety committee established under section 16, the co-chair or a committee member who represents workers;
- (b) if there is a health and safety representative designated under section 17, that representative;
- (c) if there is no committee or representative, or where no committee member or representative is available, another worker selected by the worker refusing to do the work.

(4) The employer required to inspect under subsection (3) shall take any action necessary to remedy any dangerous condition, or ensure that such action is taken.

(5) Until the dangerous condition is remedied, the worker who reported it may continue to refuse to work or to do particular work to which the dangerous condition may relate.

(6) When a worker has refused to work or to do particular work under subsection (1), the employer shall not request or assign another worker to do the work until the employer has determined that the work does not constitute a danger to the health and safety of any person or that a dangerous condition does not exist.

(7) Where the employer assigns another worker to do the work, the employer shall advise that worker, in writing, of

- (a) the first worker's refusal,
- (b) the reasons for the refusal,

- (c) the reason why, in the opinion of the employer, the work does not constitute a danger to the health and safety of any person or that a dangerous condition is not present, and
- (d) that worker's right to refuse to do dangerous work under this section.

**(8)** On completing an inspection under subsection (3), the employer shall prepare a written report of the refusal to work, the inspection and action taken, if any, under subsection (4).

**(9)** The employer shall give a copy of the report completed under subsection (8) to

- (a) the worker who refused work under subsection (1),
- (b) the joint work site health and safety committee, if one exists, and
- (c) the health and safety representative, if one exists.

**(10)** The employer shall ensure that a report given under subsection (9) does not contain any personal information related to the worker who refused to work under subsection (1).

#### **Report of dangerous condition to an officer**

**32(1)** If the dangerous condition or the danger to the worker's health and safety or to the health and safety of another worker or another person is not remedied after an inspection under section 31(3), the worker who refused to perform the work under section 31(1) or any person present during the inspection may file a complaint with an officer.

**(2)** On receiving a complaint under subsection (1), the officer shall investigate the matter and decide whether there is a dangerous condition or whether the work the worker has refused to do constitutes a danger to the health and safety of the worker or of any other worker or person at the work site.

**(3)** If the officer decides that there is a dangerous condition or a danger to the worker's health and safety or to the health and safety of any other worker or person at the work site, the officer shall

- (a) make a written report stating the officer's decision,
- (b) make any order under this Act that the officer considers necessary, and
- (c) give a copy of the report and any order to



- (i) the worker who refused to do the work,
  - (ii) the employer,
  - (iii) the joint work site health and safety committee, if one exists,
  - (iv) the health and safety representative, if one exists, and
  - (v) any other person who filed a complaint.
- (4) If the officer decides that a dangerous condition is not present, the officer shall, in writing,
- (a) inform the employer and the worker of that decision,
  - (b) inform the joint work site health and safety committee, if one exists, or the health and safety representative, if one exists, of that decision, and
  - (c) inform the worker that the worker is no longer entitled to refuse to do the work.

**Worker entitled to be paid despite refusal**

**33(1)** If a worker has refused to work or to do particular work under section 31(1),

- (a) the worker is entitled to the same wages and benefits that the worker would have received had the worker continued to work, and
- (b) the employer may reassign the worker temporarily to alternate work.

(2) A work reassignment under subsection (1)(b) is not considered discriminatory action for the purposes of section 35.

**Employer not to make worker work in dangerous conditions**

**34(1)** When the employer or supervisor at a work site knows or ought to know of a condition at the work site that is or is likely to be dangerous to the health and safety of a worker, the employer or supervisor shall not require or permit any worker to do that work until the dangerous condition is remedied.

(2) Subject to section 31, nothing in subsection (1) prevents the doing of any work or thing at a work site that may be necessary to remedy a condition that is or is likely to be dangerous to the health and safety of a worker.

**Prohibition of discriminatory action**

**35** No person shall take any discriminatory action against a worker, by reason of that worker

- (a) acting in compliance with this Act, the regulations, the OHS code or an order given under this Act, the regulations or the OHS code or the terms, conditions or requirements on an acceptance under section 55 or on an approval under section 56,
- (b) being called to testify, intending to testify or testifying in a proceeding under this Act,
- (c) giving relevant information about work site conditions affecting the health and safety of any worker engaged in work or any other person present at the work site to any of the following:
  - (i) an employer or a person acting on behalf of an employer;
  - (ii) an officer or another person concerned with the administration of this Act, the regulations or the OHS code;
  - (iii) a joint work site health and safety committee or a health and safety representative,
- (d) performing duties or exercising rights as a member of a joint work site health and safety committee or as a health and safety representative,
- (e) assisting or having assisted with the activities of a joint work site health and safety committee or health and safety representative,
- (f) refusing to do work under section 31(1),
- (g) seeking to establish a joint work site health and safety committee or have a health and safety representative designated,
- (h) being prevented from working because of an order under this Act, the regulations or the OHS code, and
- (i) taking reasonable action to protect the health and safety of that worker or any other person.

**Discriminatory action complaint**

**36(1)** A worker who has reasonable cause to believe that the worker has been subjected to discriminatory action in respect of an alleged contravention of section 35 may file a complaint with an officer.

**(2)** An officer who receives a complaint under subsection (1) shall investigate, make a decision and prepare a written report of the worker's complaint, the investigation and the decision of the officer and shall give the worker and the employer a copy of the report.

**(3)** If, in the opinion of the officer, discriminatory action has occurred, the officer shall in writing order an employer to do one or more of the following:

- (a) cease the discriminatory action;
- (b) reinstate the worker to the worker's former employment under the same terms and conditions under which the worker was formerly employed;
- (c) pay the worker not more than the equivalent of wages and benefits that the worker would have earned if the worker had not been subjected to discriminatory action;
- (d) remove any reprimand or other reference to the matter from the worker's employment records;
- (e) other measures to prevent recurrence.

**(4)** A worker or an employer who receives a report under subsection (2) may appeal the matter to the appeal body under section 71 by serving a notice of appeal on the appeal body within 30 days from the receipt of the report.

**(5)** If an officer determines that discriminatory action has been taken against a worker who has acted or participated in an activity described in section 35,

- (a) there is a presumption in favour of the worker that the discriminatory action was taken against the worker because the worker acted or participated in an activity described in section 35, and
- (b) the onus is on the employer to establish that the discriminatory action was taken against the worker for a reason other than acting or participating in an activity described in section 35.

## Part 5 Program and Practice

### Health and safety program

**37(1)** An employer who employs 20 or more workers shall establish, in consultation with the joint work site health and safety committee, a health and safety program that includes, at a minimum, the following elements:

- (a) a health and safety policy that states the policy for the protection and maintenance of the health and safety of workers at the work site;
- (b) identification of existing and potential hazards to workers at the work site, including harassment, violence, physical, biological, chemical or radiological hazards and measures that will be taken to eliminate, reduce or control those hazards;
- (c) an emergency response plan;
- (d) a statement of the responsibilities of the employer, supervisors and workers at the work site;
- (e) a schedule and procedures for regular inspection of the work site;
- (f) procedures to be followed to protect health and safety when another employer or self-employed person is involved in work at the work site, including criteria for evaluating and selecting and for regularly monitoring those employers and self-employed persons;
- (g) worker and supervisor health and safety orientation and training;
- (h) procedures for investigating incidents, injuries and refusals to work;
- (i) procedures for worker participation in work site health and safety, including inspections and the investigation of incidents, injuries and refusals to work;
- (j) procedures for reviewing and revising the health and safety program if circumstances at a work site change in a way that creates or could create a hazard to workers;
- (k) any elements set out in the regulations.

- (2) The employer shall implement the health and safety program referred to in subsection (1).
- (3) For the purposes of calculating the number of workers in subsection (1), the number of workers must be determined by the average number of full-time and part-time workers employed by the employer at the work site on a daily basis on each working day
- (a) over the previous 12 months if operations began at least 12 months prior to the calculation,
  - (b) since the operations began if operations began less than 12 months prior to the calculation, or
  - (c) expected to be present over the duration of a new operation lasting 90 days or more but less than 12 months.
- (4) A health and safety program must be reviewed every 3 years or more often if there is a change in circumstances at the work site that creates or could create a hazard to workers, and revised as appropriate.
- (5) Despite subsection (1), an employer with fewer than 20 workers shall involve affected workers and the health and safety representative, if one exists, in hazard assessment and control or elimination of the hazards identified in accordance with the regulations and the OHS code.

#### **Occupational Health and Safety Advisory Council**

- 38(1)** The Minister shall establish and appoint a council called the “Occupational Health and Safety Advisory Council” that shall consist of not more than 12 persons.
- (2) The Minister may designate one of the members of the Council as chair and one or more of the members of the Council as vice-chairs.
- (3) Of the members appointed under subsection (1),
- (a) 1/3 must be selected from a list of at least 7 persons, each of whom is nominated by one or more organizations that represent workers or classes of workers,
  - (b) 1/3 must be selected from a list of at least 7 persons, each of whom is nominated by one or more organizations that represent employers or classes of employers, and
  - (c) 1/3 must be selected from a list of at least 7 persons, each of whom is nominated by technical and professional bodies

whose members are concerned with the general purposes of this Act.

- (4) The members of the Council shall be appointed for terms not exceeding 3 years.
- (5) On the expiration of a member's term of office, that member of the Council may, subject to the *Alberta Public Agencies Governance Act* and any applicable regulations under that Act, be reappointed from the lists referred to in subsection (3).
- (6) The Council shall meet at the call of the Minister or the chair, but in any case at least quarterly.
- (7) A majority of the members of the Council, which shall include 2 persons representing the views of workers, 2 persons representing the views of employers and one person representing the views of technical or professional bodies, constitute a quorum of the Council.
- (8) The members of the Council shall be paid
- (a) any remuneration that the Lieutenant Governor in Council may prescribe in accordance with any applicable regulations under the *Alberta Public Agencies Governance Act*, and
  - (b) their reasonable travelling and living expenses in accordance with any applicable regulations under the *Alberta Public Agencies Governance Act*, if incurred while absent from their ordinary places of residence and in the course of their duties as members of the Council.
- (9) If regulations under the *Alberta Public Agencies Governance Act* apply in respect of remuneration for the members of the Council, those regulations prevail, to the extent of any conflict or inconsistency, over any regulations prescribing remuneration under subsection (8)(a).

#### **Duties of Council**

**39(1)** The Council may advise or make recommendations to the Minister on any one or more of the following matters:

- (a) occupational health and safety generally;
- (b) the protection of workers in specific work site situations;
- (c) the appointment of consultants and advisors by the Minister;

- (d) any matter relating to occupational health and safety on which the Minister seeks the Council's opinion.

(2) The Council shall review any matter relating to this Act and its administration when requested to do so by the Minister and report its findings and recommendations, if any, to the Minister.

#### **Serious injuries and incidents**

**40(1)** When an injury or incident described in subsection (2) occurs at a work site, the prime contractor or, if there is no prime contractor, the employer shall report the time, place and nature of the injury or incident to a Director of Inspection as soon as possible.

(2) The injuries and incidents to be reported under subsection (1) are

- (a) an injury or incident that results in the death of a worker,
- (b) an injury or incident that results in a worker being admitted to a hospital, and for the purposes of this clause, "admitted to a hospital" means when a physician writes admitting orders to cause a worker to be an inpatient of a hospital, but excludes a worker being assessed in an emergency room or urgent care centre without being admitted,
- (c) an unplanned or uncontrolled explosion, fire or flood that causes a serious injury or that has the potential of causing a serious injury,
- (d) the collapse or upset of a crane, derrick or hoist,
- (e) the collapse or failure of any component of a building or structure necessary for the structural integrity of the building or structure, or
- (f) any injury or incident or a class of injuries or incidents specified in the regulations.

(3) If an incident described in subsection (4) occurs at a mine or mine site, the prime contractor or, if there is no prime contractor, the employer shall make a report to a Director of Inspection of the time, place and nature of the incident as soon as possible.

(4) The incidents that must be reported under subsection (3) are

- (a) an unexpected major ground fall or subsidence that endangers or may endanger workers, equipment or facilities,

- (b) an unplanned stoppage of the main underground ventilation system, if it lasts more than 30 minutes, or occurs repeatedly,
  - (c) a vehicle that goes out of control,
  - (d) an ignition of flammable gas, combustible dust or other material underground,
  - (e) workers being withdrawn from a hazardous location under emergency conditions,
  - (f) electrical equipment failures or incidents that cause, or threaten to cause, injury to workers or damage to equipment or facilities,
  - (g) outbursts and inrushes,
  - (h) an incident involving a hoist, sheave, hoisting rope, shaft conveyance, shaft, shaft timbering or head frame structure,
  - (i) any other unusual incident or unexpected event that could have caused serious injury to a worker,
  - (j) the following incidents where the integrity of a dam or dike is affected at a mine or mine site:
    - (i) cracking or evidence of weakening or subsidence of a dam or impoundment dike;
    - (ii) unexpected seepage or the appearance of springs on the outer face of a dam or dike;
    - (iii) the freeboard of a dam or dike being less than adequate;
    - (iv) a washout or significant erosion to a dam or dike,
- and
- (k) any injury or incident or a class of injuries or incidents specified in the regulations.

**(5)** If an injury or incident referred to in subsection (2) or (4) occurs at a work site or if any other injury or any other incident that has the potential of causing serious injury to a person occurs at a work site, the prime contractor or, if there is no prime contractor, the employer shall

- (a) report the time, place and nature of the incident to a Director of Inspection,



- (b) carry out an investigation into the circumstances surrounding the injury or incident,
- (c) prepare a report outlining the circumstances of the injury or incident and the corrective action, if any, undertaken to prevent a recurrence of the injury or incident,
- (d) ensure that a copy of the report is readily available and provided to an officer on demand, and
- (e) provide a copy of the report to a Director of Inspection, the joint work site health and safety committee or health and safety representative, if applicable, or, if there is no committee or representative, make it available to workers once the investigation is complete.

(6) The investigation referred to in subsection (5)(b) must be conducted with the participation of the joint work site health and safety committee or health and safety representative, if there is one at the work site.

(7) The prime contractor or employer who prepared the report referred to in subsection (5)(c) shall retain the report for at least 2 years after the serious injury or incident at the work site.

(8) A report prepared under this section is not admissible as evidence for any purpose in a trial arising out of the injury or incident, an investigation or public inquiry under the *Fatality Inquiries Act* or any other action as defined in the *Alberta Evidence Act*, except in a prosecution for perjury or for the giving of contradictory evidence.

(9) Except as otherwise directed by a Director of Inspection, an occupational health and safety officer or a police officer, a person shall not disturb or conduct work at the scene of an injury or incident required to be reported under subsection (1) or (3), including the immediate area where the incident occurred, or alter, move or remove equipment, documents or other information that may be related to the incident, except insofar as is necessary in

- (a) attending to persons injured or killed,
- (b) preventing further injuries or incidents, and
- (c) protecting property that is endangered as a result of the injury or incident.

## Part 6 Minister and Staff

### Duties of the Minister

**41** The Minister shall, in accordance with the purposes of this Act,

- (a) be concerned with occupational health and safety, generally, and with the maintenance of reasonable standards for the protection of the health and safety of workers and self-employed persons in Alberta,
- (b) be responsible for the administration of this Act, the regulations and the OHS code,
- (c) review this Act and its administration or designate a body to do so every 5 years and publish a report,
- (d) publish each year a 3-year plan for the review of the regulations and the OHS code,
- (e) after consulting with such representatives of employers and of workers in the industries that will be affected, as the Minister considers appropriate, submit from time to time to the Government such recommendations as the Minister considers appropriate for the making of regulations or the OHS code,
- (f) ensure that persons and organizations concerned with the purposes of this Act are provided with information and advice pertaining to its administration and to the protection of the health and safety of workers generally,
- (g) prepare and maintain, or cause to be prepared and maintained, illness, death and incident statistics relating to workers and self-employed persons, and do so either alone or in conjunction with The Workers' Compensation Board, other government ministries or any other agency, commission or organization, and
- (h) do such other things in connection with health and safety for the purposes of carrying out the provisions of this Act, the regulations and the OHS code and the provisions of any other Act or regulations the administration for which the Minister has responsibility.

### Staff

**42(1)** In accordance with the *Public Service Act*, there may be appointed one or more Directors of Inspection, Directors of

Medical Services, Directors of Occupational Hygiene, occupational health and safety officers and any other employees necessary for the administration of this Act.

(2) The Minister may, in writing, designate

- (a) any employee of the Government as a person who may perform all or part of the duties and responsibilities of a Director of Inspection, a Director of Occupational Hygiene or an officer, or
- (b) any physician employed by the Government or any other physician as a person who may perform all or part of the duties and responsibilities of a Director of Medical Services.

(3) The Minister may consent to have an officer carry out health and safety inspections or other work on behalf of another province or the Government of Canada on such terms and conditions as is deemed advisable.

(4) The Minister shall provide each officer with written credentials of the officer's appointment which the officer shall produce on request when exercising or seeking to exercise any of the powers conferred on the officer under this Act.

#### **Powers of a Director**

##### **43 A Director**

- (a) may issue and grant acceptances and approvals, in accordance with sections 55 and 56,
- (b) may issue orders under sections 62, 63, 64 and 65,
- (c) subject to section 48(6), may require a person to provide any information in the form and manner acceptable to the Director that the Director needs to perform duties or exercise powers under this Act, the regulations and the OHS code,
- (d) has all the powers of an officer as set out in this Act, and
- (e) may perform such other functions as the Minister may direct for the proper administration of this Act, the regulations and the OHS code.

#### **Duties of officers**

##### **44 An officer shall**

- (a) make such inspections, investigations and inquiries and carry out such tests, as are deemed necessary to ascertain whether compliance is being made with the provisions of this Act, the regulations and the OHS code, and
- (b) carry out such other duties as may be assigned to officers under this Act, the regulations and the OHS code.

**Confidential information**

**45** No person shall disclose any information with respect to any confidential proprietary information or trade secrets obtained by virtue of the exercise of any power conferred by this Act, except for the purpose of administering this Act, the regulations and the OHS code, or as required by law.

## **Part 7 Medical Assessments**

**Medical examination**

**46(1)** A Director of Medical Services may, for the purposes of determining

- (a) the extent of any injury suffered by a worker injured in an incident that occurred in respect of that worker's occupation, or
- (b) whether a worker is suffering from an occupational disease that is related to that worker's occupation,

require that worker to be medically examined by a Director of Medical Services, a physician chosen by a Director of Medical Services or by the worker's physician.

**(2)** A Director of Medical Services may order the employer to pay for a medical examination of a worker under subsection (1).

**(3)** A Director of Medical Services may order the employer to pay any wages and benefits that the worker would have received for working during those normal hours of employment that were spent by that worker in being examined or going to or returning from that examination.

**(4)** The medical examination must only occur with the consent of the worker.

**Notice of findings**

**47** When a physician or other health care professional, in the course of professional practice, finds that a person is affected with or is suffering from a notifiable disease, the physician or other health care professional shall, within 7 days after the diagnosis of that disease or becoming aware of the diagnosis, notify a Director of Medical Services in writing of the name, address, employer and place of employment of that person and the name of the notifiable disease.

**Medical reports used for enforcement**

**48(1)** A physician or other health care professional who performs or supervises an examination of a worker as required under sections 46 and 50, the regulations or the OHS code shall, on the request of a Director of Medical Services, disclose any medical reports that a Director of Medical Services may require for the purpose of enforcement of this Act, the regulations and the OHS code.

**(2)** A physician, nurse or first aid attendant who attends a worker who became ill or was injured while engaged in an occupation shall, on the request of a Director of Medical Services, disclose any reports that a Director of Medical Services may require for the purpose of enforcement of this Act, the regulations and the OHS code.

**(3)** On the request of a Director of Medical Services, any employer or service provider who has reports containing health information related to a worker who became ill or was injured while engaged in an occupation shall provide such reports to the Director of Medical Services for the purpose of enforcement of this Act, the regulations and the OHS code.

**(4)** A custodian shall on the request of a Director of Medical Services disclose any reports in the custodian's custody or under the custodian's control, including individually identifying health information or personal information contained in such a report, regarding the medical care of a worker in relation to a work site illness or injury for the purpose of enforcement of this Act, the regulations and the OHS code.

**(5)** For the purpose of enforcement of this Act, the regulations and the OHS code, a Director of Medical Services may request from a health service provider, laboratory or custodian and a health services provider, laboratory or custodian shall disclose results

- (a) from the medical, health or biological monitoring of a worker or a group of workers as required or performed under this Act, the regulations or the OHS code, or
- (b) from medical or health surveillance of a worker or a group of workers as required or performed under this Act, the regulations or the OHS code.

**(6)** Only a Director of Medical Services or a person authorized in writing by the Director of Medical Services may require the production of, or examine and make copies of, or remove temporarily for the purpose of making copies of, the following records:

- (a) medical reports, records or results;
- (b) results from the medical, health or biological monitoring of a worker or a group of workers;
- (c) results from medical or health surveillance of a worker or a group of workers;
- (d) notification of a diagnosis of a notifiable disease;
- (e) any other record set out in the regulations.

#### **Occupational health surveillance**

**49** The Minister may establish, in accordance with the regulations, a program for the purposes of occupational health and safety surveillance, which includes

- (a) monitoring trends in occupational diseases, injuries, exposures, fatalities and incidents, and
- (b) any other elements specified in the regulations as being part of occupational health and safety surveillance.

#### **Examination of workers exposed to hazards**

**50(1)** If a worker is employed in a hazardous occupation or at a hazardous work site, a Director of Medical Services may

- (a) require the worker's employer, within 30 days after the commencement of the worker's employment, to register with a Director the worker's name and the location of the work site where the worker is employed,
- (b) require the worker's employer to send the worker for regular medical examinations by a physician with knowledge and

expertise in occupational medicine, or as acceptable to the Director of Medical Services,

- (c) prescribe the type and frequency of the medical examinations,
- (d) prescribe the form and content of medical records to be compiled with respect to that worker, and
- (e) prescribe the period of time for which those medical records must be maintained.

(2) When the employment of a person registered under subsection (1)(a) ends, the employer shall notify a Director of Medical Services of that termination within 30 days after that termination.

(3) The employer shall pay for medical examinations of a worker under subsection (1).

(4) Despite subsections (1) and (2), the worker may refuse to undergo part or all of a medical examination by giving the employer a written statement refusing it.

(5) An employer shall not coerce, threaten or force a worker into refusing part or all of a medical examination.

(6) The employer shall ensure that, if it is reasonably practicable to do so, a medical examination is performed during normal hours of work.

(7) If the medical examination cannot be performed during normal hours of work, the employer must pay the worker the worker's applicable rate of pay for the time of the examination.

## **Part 8 Compliance and Enforcement**

### **Inspection**

**51(1)** For the purposes of this Act, an officer may

- (a) at any reasonable hour and without warrant, enter into or on any work site and inspect that work site except for a premises used as a private dwelling,
- (b) subject to section 48(6), require the production of any records, books, plans or other documents, including electronic documents, that relate to the health and safety of workers and may examine them, make copies of them or remove them temporarily for the purpose of making copies,

- (c) use data storage, information processing or retrieval devices or systems that are used by an employer in order to examine records, books, plans or other documents,
  - (d) require any person to provide the officer with all reasonable assistance, including using any computer hardware or software or any other data storage, processing or retrieval device or system to produce information,
  - (e) inspect, seize or take samples of any material, product, equipment or other thing being produced, used or found in or on the work site that is being inspected,
  - (f) cause any article, substance or sample taken pursuant to clause (e) to be dismantled or subjected to any process or test, but not in such manner as to damage or destroy it, unless under the circumstances damage or destruction thereto is unavoidable or necessary,
  - (g) bring along equipment or materials needed and be accompanied and assisted by a person who has special, expert or professional knowledge of a matter relevant to the inspection,
  - (h) make tests and take photographs, measurements or recordings in respect of any work site,
  - (i) require the employer or a person designated by the employer to demonstrate the use of any machinery, equipment, appliance or thing at a work site, and
  - (j) interview and obtain statements from persons at the work site or persons not located at the work site who have information related to the health and safety of workers at the work site.
- (2)** Notwithstanding subsection (1)(a), an officer may enter and examine a room or place used as a private dwelling that is a work site only if
- (a) the owner or person in possession of it consents to the entry and examination, or
  - (b) the entry and examination is authorized by a judge under subsection (3).
- (3)** Where a judge of the Provincial Court is satisfied on an officer's evidence under oath that there are reasonable grounds for an officer to exercise a power under this section and that



- (a) in the case of a room or place actually used as a private dwelling, the officer cannot obtain consent under subsection (2)(a), or
- (b) having obtained consent under subsection (2)(a), the officer has been obstructed or interfered with,

the judge may make any order the judge considers necessary to enable the officer to exercise the powers under this section.

**(4) When an officer**

- (a) removes any records, books, plans or other documents under subsection (1)(b), the officer shall
  - (i) give to the person from whom those items were taken a receipt for them, and
  - (ii) forthwith make copies of, take photographs of or otherwise record those items and forthwith return them to the person to whom the receipt was given,

or

- (b) seizes or takes samples of any material, product, equipment or other thing under subsection (1)(e), the officer shall
  - (i) give to the person from whom those items were seized or taken a receipt for them, and
  - (ii) on that person's request, return those items to that person when they have served the purposes for which they were seized or taken.

**(5)** If a person refuses to allow an officer to exercise any powers under subsection (1) or interferes or attempts to interfere with the officer in the exercise of those powers, a Director of Inspection may apply to the Court of Queen's Bench for an order restraining that person from hindering or interfering in any manner with the officer in the exercise of those powers.

**(6)** A statement given under this section is not admissible in evidence for any purpose in a trial, public inquiry under the *Fatality Inquiries Act* or other proceeding except

- (a) to prove non-compliance with this section in an action or proceeding under this Act,
- (b) to prove the commission of an offence under section 74(3) in an action or proceeding under this Act,

- (c) to prove the giving of contradictory evidence in an action or proceeding under this Act, or
- (d) as evidence in
  - (i) a review under section 70(1),
  - (ii) an appeal to the appeal body through a referral of a matter under section 70(5)(c) to the appeal body, or
  - (iii) an appeal under section 71(2)(a), (c), (d) or (e).

**Identification**

**52(1)** Every person at a work site shall, on request by an officer, provide proof of identity satisfactory to the officer, including the name of the person's employer and the person's role at the work site.

**(2)** Every employer involved in work at a work site shall, on request by an officer, identify to the officer the workers and supervisors employed by that employer at the work site.

**Investigation of injury or incident**

**53(1)** If an injury or incident occurs at a work site, an officer may, subject to section 51(2),

- (a) initiate an investigation of the injury or incident,
- (b) attend at the scene of the injury or incident and make any inquiries that the officer considers necessary to determine the cause of the injury or incident and the circumstances related to the injury or incident,
- (c) enter any place or area at a work site that the injury or incident occurred where the officer believes information relating to the injury or incident exists,
- (d) require the production of any records, books, plans or other documents, including electronic documents, and examine them, make copies of them or seize them, and
- (e) use data storage, information processing or retrieval devices or systems that are used by an employer in order to examine records, books, plans or other documents.

**(2)** Every person present when an injury or incident occurred or who has information relating to the injury or incident shall, on the

request of an officer, provide to the officer any information respecting the injury or incident that the officer requests.

**(3)** An officer may, for the purposes of determining the cause of the injury or incident, seize or take samples of any substance, material, product, equipment or other thing that was present at, involved in or related to the injury or incident.

**(4)** If an officer seizes or takes samples of any substance, material, product or equipment under subsection (3), the officer shall

- (a) give to the person from whom those items were seized or taken a receipt for those items,
- (b) on that person's request, return those items to that person when those items have served the purposes for which they were seized or taken, and
- (c) dispose of or destroy the seized items if the person from whom the items were seized cannot be located or declines to take receipt of the items.

**(5)** Notwithstanding subsections (1)(b) and (c), an officer may enter and examine a room or place used as a private dwelling only if

- (a) the owner or person in possession of it consents to the entry and examination, or
- (b) the entry and examination is authorized by a judge under subsection (6).

**(6)** Where a judge of the Provincial Court is satisfied on an officer's evidence under oath that there are reasonable grounds for an officer to exercise a power under this section and that

- (a) in the case of a room or place actually used as a private dwelling, the officer cannot obtain consent under subsection (5)(a), or
- (b) having obtained consent under subsection (5)(a), the officer has been obstructed or interfered with,

the judge may make any order the judge considers necessary to enable the officer to exercise the powers under this section.

**(7)** A statement given under this section is not admissible in evidence for any purpose in a trial, public inquiry under the *Fatality Inquiries Act* or other proceeding except

- (a) to prove non-compliance with this section in an action or proceeding under this Act,
  - (b) to prove the commission of an offence under section 74(3) in an action or proceeding under this Act,
  - (c) to prove the giving of contradictory evidence in an action or proceeding under this Act, or
  - (d) as evidence in
    - (i) a review under section 70(1),
    - (ii) an appeal to the appeal body through a referral of a matter under section 70(5)(c) to the appeal body, or
    - (iii) an appeal under section 71(2)(a), (c), (d) or (e).
- (8) A police officer may assist an officer in carrying out the officer's duties under this section if the officer so requests.

#### **Prohibition from interference**

**54** No person shall interfere with or in any manner hinder an occupational health and safety officer or a police officer who is exercising powers or performing duties or functions under this Act.

#### **Acceptances**

**55(1)** A Director may, in accordance with the regulations or the OHS code, issue in writing an acceptance to a prime contractor, a contractor, an employer, a self-employed person, a supplier, a service provider, an owner or a group of one or more of these parties if, in the Director's opinion, an alternative piece of equipment, work process, standard, requirement, substance, service, first aid service or first aid supplies or equipment at a work site provides equal or greater protection than that provided for by the regulations or the OHS code to persons affected by the equipment, work process, standard, substance, requirement, service, first aid service or first aid supplies or equipment.

(2) A Director may impose any terms, conditions or requirements on the acceptance the Director considers necessary to maintain the health and safety of a worker and those terms, conditions and requirements are part of the acceptance.

(3) The period during which an acceptance will be in effect must not exceed 5 years from the date of issuance.

- (4) An acceptance is in effect only during the period prescribed in it and, notwithstanding anything in this Act, the regulations or the OHS code, during that period, the terms, conditions or requirements set out in it apply with respect to the equipment, work process, standard, requirement, substance, service, first aid service or first aid supplies or equipment at the work site to which the acceptance applies.
- (5) A prime contractor, a contractor, an employer, a self-employed person, a supplier, a service provider, an owner or a group of one or more of these parties who is issued an acceptance shall ensure that the acceptance, including any terms, conditions or requirements on the acceptance, or the original legislative requirement is complied with.
- (6) The *Regulations Act* does not apply to an acceptance issued by a Director.
- (7) An application for an acceptance must
- (a) be in writing,
  - (b) include a statement of why the acceptance is requested, and
  - (c) provide the specific details about the alternative equipment, work process, standard, requirement, substance, service, first aid service or first aid supplies or equipment that a Director needs to determine whether the alternative gives workers equal or greater protection than the original legislative requirement.
- (8) The applicant shall
- (a) post a copy of the application at the work site and keep it posted there until the decision on the requested acceptance is received by the applicant, and
  - (b) provide a copy to the joint work site health and safety committee or health and safety representative, if one exists.
- (9) Subsection (8) does not apply if the acceptance relates to the demolition of a structure or equipment.
- (10) After receiving an application for an acceptance, the Director may give notice of the application and shall conduct consultation or direct the prime contractor, a contractor, an employer, a self-employed person, a supplier, a service provider, an owner or a group of one or more of these parties to conduct consultation with the joint work site health and safety committee or health and safety representative, and with individual workers, if applicable, or other

persons respecting that application as the Director considers advisable.

**(11)** The Director shall give written reasons for a decision on an application for an acceptance.

**(12)** The Director shall give notice of the Director's decision, including the written reasons and any acceptance issued, to the applicant and to any persons who were consulted under subsection (10).

**(13)** A prime contractor, a contractor, an employer, a self-employed person, a supplier, a service provider, an owner or a group of one or more of these parties who receives an acceptance shall ensure that a copy or a record of an acceptance that applies at a work site is

- (a) posted in a conspicuous place at the work site,
- (b) if applicable, secured to or kept with the equipment to which the acceptance applies, or
- (c) otherwise communicated to the workers who may be affected by the acceptance.

**(14)** If the variation of an acceptance does not substantively change the acceptance based on what was consulted on under subsection (10), a Director may vary an acceptance on receipt of a written request from the prime contractor, a contractor, an employer, a self-employed person, a supplier, a service provider, an owner or a group of one or more of these parties.

**(15)** A Director may suspend, amend or revoke an acceptance for non-compliance with the terms, conditions or requirements set out in it or at the Director's discretion.

### **Approvals**

**56(1)** Where this Act, the regulations or the OHS code authorize a Director to issue an approval, a Director may, in accordance with this Act, the regulations or the OHS code issue an approval to a prime contractor, a contractor, an employer, a self-employed person, a supplier, a service provider, an owner or a group of one or more of these parties provided the prime contractor, contractor, employer, supplier, service provider, owner or a group of one or more of these parties meets any terms or conditions that the Director considers necessary.

**(2)** After receiving an application for an approval, the Director shall, as appropriate, consult or direct the prime contractor, a

contractor, an employer, a self-employed person, a supplier, a service provider, an owner or a group of one or more of these parties to conduct consultation with the joint work site health and safety committee or health and safety representative, and with individual workers, if applicable, or other persons respecting that application, as the Director considers advisable.

- (3) An application for an approval must
  - (a) be in writing,
  - (b) include a statement of why the approval is requested, and
  - (c) provide the specific details about the circumstances and work site a Director needs to determine whether the approval should be granted.
- (4) A Director may impose any terms, conditions and requirements on the approval the Director considers necessary to maintain the health and safety of a worker and those terms, conditions and requirements are part of the approval.
- (5) The period during which an approval will be in effect must not exceed 5 years from the date of issuance.
- (6) A prime contractor, a contractor, an employer, a self-employed person, a supplier, a service provider, an owner or a group of one or more of these parties who is issued an approval shall ensure that the approval, including any terms, conditions or requirements on the approval, or the original legislative requirement is complied with.
- (7) If the variation of an approval does not substantively change the approval based on what was consulted on under subsection (2), a Director may vary an approval on receipt of a written request from the prime contractor, a contractor, an employer, a self-employed person, a supplier, a service provider, an owner or a group of one or more of these parties.
- (8) A Director may suspend, amend or revoke the Director's approval for non-compliance with the terms, conditions or requirements set out in it or at the Director's discretion.

#### **Interjurisdictional recognition**

**57(1)** Notwithstanding the standards required to be followed and equipment required at a work site as specified by this Act, the regulations or the OHS code and on the application of a prime contractor, a contractor, an employer, a self-employed person, a supplier, a service provider, an owner or a group of one or more of

these parties, a Director may approve an alternate standard or equipment that complies with the requirements in another Canadian jurisdiction if, in the Director's opinion, the standard or equipment is equal to or better than the standards required to be followed and equipment required at a work site as specified by this Act, the regulations and the OHS code.

(2) The approval may be subject to such terms, conditions and requirements as the Director considers appropriate.

(3) The period during which an approval will be in effect must not exceed 5 years from the date of issuance.

(4) A prime contractor, a contractor, an employer, a self-employed person, a supplier, a service provider, an owner or a group of one or more of these parties who received an approval shall comply with the terms, conditions and requirements on the approval.

(5) A Director may suspend, amend or revoke an approval for non-compliance with the terms, conditions or requirements set out in it or at the Director's discretion.

#### **Licence**

**58(1)** A licence may be issued in accordance with the regulations or the OHS code.

(2) A Director may, in accordance with the regulations or the OHS code, cancel or suspend a licence.

#### **Order to ensure compliance**

**59(1)** When an officer is of the opinion through an inspection under section 51 or an investigation under section 53 that a person is not complying with this Act, the regulations or the OHS code, the officer shall take steps to ensure compliance, including, where appropriate, writing an order to the person to take such measures specified in the order, within the time limits specified in the order, as the officer considers necessary to ensure such compliance.

(2) An order must

- (a) cite the contravened provision of this Act, the regulations or the OHS code,
- (b) state the reasons for the officer's opinion,
- (c) require the person to take the measures within a period specified by the officer in the order, and



- (d) state any other terms and conditions the officer determines are appropriate.
- (3)** The period of compliance in an order
- (a) may end at any time before the end of the specified period if the officer determines that compliance has been achieved in relation to the measures ordered, or
  - (b) may be extended by the officer, unless a Director has made an order under section 70(7) or the chair or a vice-chair of the appeal body has so directed under section 71(6).
- (4)** An order remains in effect until
- (a) an officer determines that the measures required under the order have been complied with or performed,
  - (b) an officer determines that the measures are no longer applicable,
  - (c) it is revoked or varied by a Director under section 70(5), or
  - (d) it is revoked or varied by the appeal body under section 71(4)(a).

**Stop work orders**

**60(1)** When an officer is of the opinion, through an inspection under section 51 or an investigation under section 53, that a danger to the health and safety of a worker exists in respect of that worker's employment, the officer shall do one or more of the following:

- (a) order the work or any part of it that is taking place to be stopped forthwith;
  - (b) order any worker or other person present to leave the work site forthwith;
  - (c) in writing, order the prime contractor, contractor, supervisor, employer, supplier, service provider or self-employed person to take measures specified by the officer that the officer considers necessary for the purpose of removing the source of the danger or to protect any person from the danger.
- (2)** When an officer is of the opinion that activities that involve, or are likely to involve, a danger to the health and safety of workers are being carried on, or are about to be carried on, by workers of

the same employer or by a self-employed person at more than one work site, the officer may order one or more of the following:

- (a) the cessation of those activities;
- (b) that all or part of any of the employer's or self-employed person's work sites be vacated;
- (c) that no resumption of those activities be permitted by the employer or self-employed person at any of the employer's or self-employed person's work sites while the order is in effect;
- (d) that the employer or self-employed person take measures specified by the officer that the officer considers necessary for the purpose of removing the source of the danger or to protect any person from the danger.

**(3)** While a stop work order issued under subsection (1)(a) or (2) is in effect,

- (a) any worker who is directly affected by the order is entitled to the same wages and benefits that the worker would have received had the stop work order not been issued, and
- (b) the employer may reassign the worker to alternate work.

**(4)** When requested to do so by an officer, a police officer shall assist the officer in carrying out the officer's duties under this section.

#### **Stop use orders**

**61(1)** When an officer is of the opinion, through an inspection under section 51 or an investigation under section 53, that equipment being used or that may be used at a work site

- (a) is not in safe operating condition, or
- (b) does not comply with the regulations or the OHS code,

the officer shall in writing order the prime contractor, contractor, owner, employer, supervisor, self-employed person or worker to take measures specified by the officer that the officer considers necessary for the purpose of removing the source of the danger or to protect any person from the danger.

**(2)** No person shall sell, rent, lease or otherwise transfer equipment that is subject to an order under subsection (1).

**(3)** When an officer is of the opinion that a supplier is supplying equipment that

- (a) is not in safe operating condition, or
- (b) does not comply with the regulations or the OHS code,

the officer may in writing order the supplier to stop supplying that equipment for use by any worker.

**(4)** When an officer is of the opinion that a supplier is supplying any substance or material that does not comply with the OHS code, the officer may in writing order the supplier to stop supplying that substance or material or take measures specified by the officer that the officer considers necessary for the purpose of removing the source of the danger or to protect any person from the danger.

**(5)** While a stop use order issued under subsection (1) that is in effect results in a worker not being able to work

- (a) the worker who is directly affected by the order is entitled to the same wages and benefits that the worker would have received had the order not been issued, and
- (b) the employer may reassign the worker to alternate work.

#### **Code of practice**

**62(1)** A prime contractor, a contractor, an employer or a self-employed person involved in work at a work site may be required

- (a) by a written order of a Director, or
- (b) by the regulations or the OHS code

to establish a code of practice and to supply copies of it to a Director.

**(2)** A code of practice must include practical guidance on the requirements of the regulations or the OHS code applicable to the work site, safe working procedures in respect of the work site and other matters as required by a Director, the regulations or the OHS code.

**(3)** A prime contractor, a contractor, an employer or a self-employed person who establishes a code of practice pursuant to subsection (1) shall ensure that

- (a) a copy of the code of practice is readily available to the workers and other persons at the work site, and

- (b) all workers to whom the code of practice applies receive appropriate training with respect to the code so that they are able to comply with its requirements.

(4) A Director may from time to time require that the code of practice be revised.

#### **Order to establish a health and safety program**

**63** If ordered to do so by a Director, an employer shall establish a health and safety program and include such terms and conditions imposed as the Director considers appropriate.

#### **Regular inspection of work sites**

**64** A Director may, by written order,

- (a) require a prime contractor, a contractor, an owner, an employer, a supervisor or a self-employed person involved in work at a work site to regularly inspect the work site for occupational hazards, and
- (b) prescribe the manner, methods and procedures or any of them to be used for carrying out those inspections.

#### **Protection of workers on a new project**

**65(1)** A person who intends to begin a new project may be required to file a notice in accordance with the regulations or the OHS code.

(2) When a person has begun or is about to begin a project and a Director is of the opinion that the health and safety of any worker who is or will be present at the project is not being or will not be protected, a Director may in writing order that person to stop that project or to refrain from beginning that project, as the case may be.

(3) An order made under subsection (2) shall remain in effect until the Director is satisfied that the person to whom the order was made has taken the measures that, in the opinion of a Director, will protect the health and safety of the workers concerned.

(4) A Director may require any person who has begun or is about to begin a project to furnish to a Director, within the time specified by the Director, the plans, drawings and specifications that are reasonably necessary for determining whether the health and safety of the workers concerned is being or will be protected.

**Report on compliance**

**66(1)** The person against whom an order is issued under section 59, 60 or 61 shall

- (a) within 7 days after the expiry of the date specified within which compliance is ordered to be achieved, or any extension thereof, prepare a written report on the measures taken to remedy the contravention,
- (b) send or provide a copy of the report referred to in clause (a) to the officer who made the order,
- (c) provide a copy of the report referred to in clause (a) to the joint work site health and safety committee or to the health and safety representative, if one exists, and
- (d) post in a conspicuous place at or near the work site a copy of the report referred to in clause (a) if there is no joint work site health and safety committee or health and safety representative for the work site.

**(2)** A person preparing a report made under subsection (1) shall ensure that no personal information related to a worker is contained in the report.

**Enforcement of compliance with order**

**67** When

- (a) an order has been made under this Act, the regulations or the OHS code by a Director or an officer, and
- (b) the person to whom that order has been made is carrying on the work without complying with that order,

a Director of Inspection may, notwithstanding that the person to whom the order was made may or may not have been prosecuted under this Act for not complying with that order, apply to the Court of Queen's Bench for an order of the Court requiring that person to comply with the order made by a Director of Inspection, a Director of Medical Services, a Director of Occupational Hygiene or an officer, as the case may be.

**Administrative penalties**

**68(1)** If an officer is of the opinion that a person

- (a) has contravened a provision of this Act, the regulations or the OHS code,

- (b) has failed to comply with an order made under this Act, the regulations or the OHS code,
- (c) has failed to comply with a term, condition or requirement of an acceptance issued under this Act, the regulations or the OHS code,
- (d) has failed to comply with a term, condition or requirement of an approval issued under this Act, the regulations or the OHS code, or
- (e) makes a false statement or gives false or misleading information to an officer,

the officer may, by notice in writing given to the person, require the person to pay to the Crown an administrative penalty in the amount set out in the notice.

**(2)** The amount of the administrative penalty must not exceed

- (a) \$10 000 per incident listed in subsection (1)(a) to (e),
- (b) for a contravention or a failure to comply with subsection (1)(a) to (d) that continues for more than one day, \$10 000 for each day or part of a day on which the contravention or failure to comply occurs or continues.

**(3)** A person who pays an administrative penalty in respect of a contravention or a failure to comply shall not be charged under this Act with an offence in respect of the same contravention or failure to comply that is described in the notice of administrative penalty.

**(4)** A notice of administrative penalty may be given within 2 years after the alleged contravention or non-compliance occurs, but not afterwards.

**(5)** Subject to the right to appeal, where a person fails to pay an administrative penalty in accordance with the notice of administrative penalty and this Act, the Minister may file a copy of the notice of administrative penalty with the clerk of the Court of Queen's Bench, and on being filed, the notice has the same force and effect and may be enforced as if it were a judgment of the Court of Queen's Bench.

#### **Awarding of costs**

**69** On an application under section 51(5), 67, 71(9) or 89(6)(a)(v), (b)(v) or (c)(v), the Court of Queen's Bench may make any award as to costs that it considers proper.

## Part 9 Review and Appeals

### Director review

**70(1)** A person to whom an order is issued under section 59, 60 or 61 or who has received a decision in a report under section 32(3)(c)(i) or (ii) or a written decision under section 32(4)(a) may request a review of the order or the decision by a Director of Inspection.

**(2)** The person requesting a review under subsection (1) shall send a written notice to a Director of Inspection within 30 days of receiving the order or the report that states the reason for the request for review and lists the persons directly affected by the order or decision.

**(3)** The Director of Inspection shall give the affected persons listed in the notice and any other person the Director of Inspection considers has an interest in the matter an opportunity to provide submissions about the matter.

**(4)** The Director of Inspection is not required to hold a hearing before making a decision.

**(5)** The Director of Inspection may decide to

- (a) confirm, vary or revoke the order or the decision,
- (b) make any other order the Director of Inspection considers reasonable, or
- (c) refer the matter to the appeal body.

**(6)** The Director of Inspection shall give written reasons within a reasonable time after receiving the notice in subsection (2).

**(7)** When a review is commenced under subsection (1), the commencement of that review does not operate as a stay of the order or decision being reviewed except as the Director of Inspection so directs.

**(8)** On referring a matter to the appeal body under subsection (5)(c), the Director of Inspection shall

- (a) inform the affected persons listed in the notice and any other person the Director of Inspection considers has an interest in the matter that the matter has been referred to the appeal body, and
- (b) give the appeal body

- (i) the notice under subsection (2),
- (ii) any written information the Director of Inspection has that is relevant,
- (iii) any written reasons provided under subsection (6), and
- (iv) a list of persons who the Director of Inspection considers have an interest in the matter.

(9) Referrals of matters to the appeal body under subsection (5)(c) and the conduct of appeals respecting those matters must be dealt with in accordance with the regulations.

### Appeal

**71(1)** The Labour Relations Board under the *Labour Relations Code* is the appeal body for the purpose of this Act.

(2) A person

- (a) to whom an order is issued under section 36, 62, 63, 64 or 65,
- (b) who is given a notice of administrative penalty,
- (c) whose licence is cancelled or suspended,
- (d) who has received a report under section 36(2), or
- (e) who has received written reasons under section 70(6), other than written reasons for a referral of a matter to the appeal body under section 70(5)(c)

may appeal the order, administrative penalty, cancellation or suspension, the decision in the report referred to in clause (d) or the decision to which the written reasons in clause (e) relate to the appeal body.

(3) Unless the matter is referred to the appeal body by the Director of Inspection under section 70(5)(c), an appeal under subsection (2) must be commenced by serving a notice of the appeal on the appeal body within 30 days of being served or given notice of the order, administrative penalty, cancellation or suspension, report or written reasons.

(4) After considering the matter being appealed, the appeal body may by order



- (a) in the case of an appeal from an order referred to in subsection (2)(a), confirm, revoke or vary the order,
  - (b) in the case of an appeal from an administrative penalty, confirm, revoke or vary the administrative penalty,
  - (c) in the case of an appeal from the cancellation or suspension of a licence,
    - (i) confirm the cancellation or suspension,
    - (ii) reinstate the cancelled licence,
    - (iii) substitute a suspension for the cancellation,
    - (iv) remove or vary the suspension, or
    - (v) add conditions to the licence,
  - (d) in the case of an appeal of a decision in a report under section 36(2), confirm, revoke or vary the officer's decision,
  - (e) in the case of a person who has received written reasons under section 70(6), confirm, revoke or vary the decision to which the reasons relate, or
  - (f) reject the matter summarily where the appeal body is of the opinion that the matter is without merit, or is frivolous, trivial, vexatious, filed with improper motives or otherwise an abuse of process.
- (5)** When an appeal is commenced under subsection (2), the appeal body shall hear the appeal and make an order as soon as practicable.
- (6)** When an appeal is commenced under subsection (2)(a), (c), (d) or (e), the commencement of that appeal does not operate as a stay of the order, cancellation or suspension, or decision being appealed from except insofar as the chair or a vice-chair of the appeal body so directs.
- (7)** When an appeal from an administrative penalty is commenced under subsection (2)(b), the commencement of that appeal operates to stay the administrative penalty until the appeal body renders its decision on the appeal or the appeal is withdrawn.
- (8)** If any order made by the appeal body is not complied with, the appeal body may file a copy of the order with the clerk of the Court of Queen's Bench and, on being filed, the order is enforceable as a judgment or order of the Court.

(9) If any person conducts himself or herself in a manner that may be in contempt of the appeal body or its proceedings, the appeal body may apply to the Court of Queen's Bench for an order directing compliance with the appeal body's order or restraining any conduct found by the Court to be in contempt of the appeal body or its proceedings.

(10) The appeal body shall publish information about proceedings and orders of the appeal body issued under this Act.

### Hearing of appeal

**72(1)** The Lieutenant Governor in Council may, in accordance with section 8(5) of the *Labour Relations Code*, establish a Division for the purpose of hearing appeals under this Act.

(2) The chair of the appeal body may establish from the members of the Division, or where there is no Division, from the members of the appeal body, a panel of 3 or more members to hear an appeal under this Act and that panel may exercise the powers, duties and functions of the appeal body.

(3) A quorum of the panel is the chair or a vice-chair presiding over the appeal and 2 other members.

(4) Notwithstanding subsections (2) and (3), the chair may authorize the chair or a vice-chair to sit alone to hear an appeal under this Act and the chair or vice-chair may exercise the powers, duties and functions of the appeal body.

(5) A panel of the appeal body or the chair or vice-chair where the chair or vice-chair is sitting alone under subsection (4) is deemed to be the appeal body for the purposes of this Act.

(6) Where a panel of the appeal body is hearing an appeal and one or more members of the panel do not for any reason attend on any day or part of a day, the remaining members present may, if they constitute a quorum under this section, exercise the powers and functions of the appeal body with respect to that hearing.

(7) Notwithstanding subsection (3), in the event of the death or incapacity of the person who is presiding over an appeal in which the evidence and argument have been heard,

- (a) the remaining members may decide the matter, if at least one of the remaining members is the chair or the vice-chair and there are at least 2 other members hearing the appeal, or
- (b) if clause (a) does not apply, the remaining members, if unanimous in their decision, may decide the matter.

(8) An order of a majority of the members of a panel of the appeal body present and constituting a quorum is the order of the appeal body and in the event that there is a tie vote, the chair or the presiding member, as the case may be, may cast a 2nd vote.

(9) The appeal body may establish rules of procedure respecting the hearing of appeals under this Act.

(10) For the purpose of hearing appeals under this Act, the appeal body has the same power as is vested in the Court of Queen's Bench for the trial of civil actions

- (a) to summon and enforce the attendance of witnesses,
- (b) to compel witnesses to give evidence under oath or otherwise,
- (c) to compel witnesses to give evidence in person or otherwise, and
- (d) to compel witnesses to produce any record, object or thing that relates to the matter being heard.

(11) The appeal body has exclusive jurisdiction to exercise the powers conferred on it by or under this Act and to determine all questions of fact or law that arise in any matter before it and the action or order of the appeal body on them is final and conclusive for all purposes, but the appeal body may, at any time, reconsider any order made by it and vary, revoke or affirm the order.

(12) Subject to subsection (13), no order of the appeal body shall be questioned or reviewed in any court by application for judicial review or otherwise, and no order shall be made or process entered or proceedings taken in any court, whether by way of injunction, declaratory judgment, prohibition, quo warranto or otherwise, to question, review, prohibit or restrain the appeal body or any of its proceedings.

(13) An order of the appeal body may be questioned or reviewed by way of an application for judicial review seeking an order in the nature of certiorari or mandamus if the application is filed with the Court of Queen's Bench and served on the appeal body no later than 30 days after the date of the order.

## **Part 10**

### **Offences and Penalties**

#### **Offences**

**73** Every person who

- (a) fails to comply with an order or decision pursuant to this Act, the regulations or the OHS code,
- (b) intentionally obstructs a Director or an officer in the exercise of the Director's or the officer's powers or the performance of the Director's or the officer's duties,
- (c) fails to reasonably cooperate with a Director or an officer in the exercise of the Director's or the officer's powers or the performance of the Director's or the officer's duties,
- (d) makes or causes to be made a false entry in any register, book, notice or other document required to be kept by the person pursuant to this Act, the regulations or the OHS code, or deletes or destroys any true or proper entry in any of those documents,
- (e) fails to report an injury or incident under section 40, or
- (f) fails to comply with any provision in this Act, the regulations or the OHS code

is guilty of an offence.

#### **Penalties**

**74(1)** A person who is guilty of an offence under section 73 is liable

- (a) for a first offence,
    - (i) to a fine of not more than \$500 000 and, in the case of a continuing offence, to a further fine of not more than \$30 000 for each day during which the offence continues after the first day or part of a day, or
    - (ii) to imprisonment for a term not exceeding 6 months,  
or to both fines and imprisonment,
- and
- (b) for a 2nd or subsequent offence,
    - (i) to a fine of not more than \$1 000 000 and, in the case of a continuing offence, to a further fine of not more than \$60 000 for each day or part of a day during which the offence continues after the first day, or
    - (ii) to imprisonment for a term not exceeding 12 months,

or to both fines and imprisonment.

(2) Notwithstanding subsection (1), a person who fails to comply with an order made under section 60 or as varied under section 71 is guilty of an offence and liable to a fine of not more than \$1 000 000 or imprisonment for a term not exceeding 12 months or to both a fine and imprisonment.

(3) A person who knowingly makes any false statement or knowingly gives false information to an officer or a police officer engaged in an inspection under section 51 or an investigation under section 53 is guilty of an offence and liable to a fine of not more than \$1000 or to imprisonment for a term not exceeding 6 months or to both a fine and imprisonment.

(4) A prosecution under this Act may be commenced within 2 years after the commission of the alleged offence, but not afterwards.

#### **Additional powers of court to make directions**

**75(1)** Where a person is convicted of an offence against this Act, the regulations or the OHS code, in addition or as an alternative to taking any other action provided for in this Act, the court may, having regard to the nature of the offence and the circumstances surrounding its commission, make an order directing the person

- (a) to pay, in the manner and the amount prescribed by the court, a sum of money to a party named by the court to be the recipient of such funds, for any of the following purposes:
  - (i) training or educational programs regarding the health and safety of workers;
  - (ii) research programs into the diagnostic, preventative or remedial aspects of worker health and safety;
  - (iii) any worker health and safety initiative by a non-profit organization;
  - (iv) the establishment and maintenance of scholarships for educational institutions offering studies in occupational health and safety and related disciplines;
  - (v) any other purpose that furthers the goal of achieving healthy and safe work sites,

or

(b) to take any other action the court considers proper.

(2) The order referred to in subsection (1) may contain any substance or conditions that the court considers appropriate.

(3) The order referred to in subsection (1) may impose terms and conditions on the recipient of any funds paid in accordance with an order made under subsection (1)(a).

#### **Effect of non-payment**

**76(1)** If a person is ordered under section 75 to pay money to any other person and fails to pay

- (a) the entire amount before the expiry of the time period within which the order requires the entire amount to be paid, or
- (b) an instalment toward the entire amount before the expiry of the time period within which the order requires the instalment to be paid,

then, on the expiry of that time period, the entire amount, or that portion that then remains unpaid, is deemed to be a fine imposed on the person and is enforceable by the Crown in right of Alberta in the same manner as any other fine may be enforced under the *Provincial Offences Procedure Act*.

(2) Subsection (1) does not apply where the order requiring the payment of money was made before the coming into force of this section.

## **Part 11 Information Collection and Exchange**

#### **Agreements re research and educational programs**

**77** The Minister may enter into an agreement with any person, government, agency or organization for the purpose of

- (a) carrying out research respecting the health and safety of workers,
- (b) establishing and operating training programs respecting the health and safety of workers,
- (c) establishing and operating programs to train persons in first aid and emergency medical services, and

- (d) establishing and operating educational programs respecting the health and safety of workers.

### **Consultants**

**78(1)** The Minister may engage the services of experts or persons having special technical or other knowledge to

- (a) advise the Minister,
- (b) inquire into and report to the Minister on matters respecting the health and safety of workers, or
- (c) provide services in respect of a work site inspection or investigation.

**(2)** A person whose services are engaged under subsection (1) shall

- (a) be paid any remuneration that the Minister prescribes, and
- (b) be paid the person's reasonable travelling and living expenses while absent from the person's ordinary place of residence and in the course of providing the person's services to the Minister.

### **Exchange of information**

**79** The Minister may enter into agreements with The Workers' Compensation Board, a government ministry, agency, board or commission or an organization governing the exchange between the Minister and the other party of

- (a) any information or reports respecting any or all of the following:
  - (i) any injuries or incidents that occur at work sites;
  - (ii) any occupational illnesses or diseases;
  - (iii) any measures taken by prime contractors, contractors or employers to protect the health and safety of workers;
  - (iv) any matter concerning the operations of prime contractors, contractors or employers,
- (b) any statistical information respecting any or all of the following:
  - (i) injuries or incidents occurring at work sites;

- (ii) occupational diseases;
  - (iii) assessments made by the Board under the *Workers' Compensation Act* and the cost of claims made under that Act,
- and
- (c) any information specified by the regulations.

#### **Publication of information about employers**

**80** The Minister shall, subject to the regulations, publish at regular intervals documents and information arising from the administration of this Act, the regulations and the OHS code, including

- (a) any available data on disabling injury claims, disabling injury rates, person years of work, lost time claims, lost time claims rates, motor vehicle fatalities, work site incident fatalities and occupational disease fatalities of employers and self-employed persons,
- (b) any orders issued to prime contractors, contractors, suppliers, service providers, employers and self-employed persons,
- (c) administrative penalties issued to any person,
- (d) tickets issued to employers, but not those issued to workers,
- (e) subject to the *Freedom of Information and Protection of Privacy Act*, investigation reports completed by an officer,
- (f) acceptances issued to any person, and
- (g) approvals issued to any person.

#### **Board of inquiry**

**81(1)** The Minister may, when the Minister considers it in the public interest to do so, by order appoint a board of inquiry of one or more persons to inquire into

- (a) any matter concerning the health and safety of workers employed
  - (i) at a particular work site or at several work sites,
  - (ii) by a particular employer or by a group of employers, or



(iii) in an industry,

or

(b) the circumstances surrounding and the causes of an injury or incident.

(2) A person appointed to a board of inquiry under this section has all the powers of a commissioner appointed under the *Public Inquiries Act*.

#### **Funded organizations**

**82(1)** Organizations funded by grants issued under section 136 of the *Workers' Compensation Act* shall, in accordance with the regulations, submit to the Minister a report in the form and containing the information required by the Minister.

(2) The Minister shall review the report submitted under subsection (1) and make recommendations to The Workers' Compensation Board respecting the effectiveness of the grant in fulfilling its purpose under section 136(3) of the *Workers' Compensation Act*.

(3) The Minister may establish criteria for the purposes of the evaluation of applications for grants issued under section 136(2) of the *Workers' Compensation Act*.

#### **Designated organizations**

**83** The Minister may, subject to the regulations, designate an organization to further occupational health and safety.

#### **Furthering occupational health and safety**

**84** The Minister may, subject to the regulations, establish and carry out programs to further occupational health and safety.

## **Part 12 Regulations and Administration**

#### **Lieutenant Governor in Council regulations**

**85(1)** The Lieutenant Governor in Council may make regulations

- (a) establishing general health and safety rules for or in connection with occupations and work sites, including
  - (i) reporting, medical and health requirements, and

- (ii) the making available of notices issued by a Director and of orders made under, and other information and documents required by this Act, the regulations or the OHS code;
- (b) providing for any matter or thing which by this Act may or is to be provided for by the regulations;
- (c) respecting the establishment, composition and operation of a board dealing with first aid training;
- (d) respecting licences and licensing, including qualifications to obtain and hold licences and the maintenance of a registry of licensees;
- (e) specifying which work sites are mines or quarries for the purposes of this Act;
- (f) respecting fees
  - (i) to be paid by the Government to physicians for services performed, and
  - (ii) for licences and for services and materials provided under this Act, the regulations and the OHS code;
- (g) respecting criteria for approvals under section 16(4);
- (h) respecting the collection, use and disclosure of information, including individually identifying health information or personal information, for the purposes of section 48;
- (i) respecting the establishment of an occupational health and safety surveillance program under section 49, including, without limitation, regulations
  - (i) respecting the collection, use and disclosure of information, including personal information as defined in the *Freedom of Information and Protection of Privacy Act* and the *Personal Information Protection Act* and the disclosure by a custodian of health information as defined in the *Health Information Act*, without the consent of the individual who is the subject of the information;
  - (ii) respecting requirements for information-handling procedures and controls;

- (iii) respecting security arrangements against risks such as unauthorized access, collection, use and destruction of the information;
- (iv) specifying other purposes for occupational health and safety surveillance;
- (j) respecting acceptances referred to in section 55;
- (k) respecting approvals referred to in section 56;
- (l) establishing and otherwise respecting a system of fixed fines or penalties for contraventions of this Act, the regulations and the OHS code, including mechanisms for administering and enforcing that system and the disposition of the fines or penalties collected under the system;
- (m) respecting the protection of workers on new projects for the purposes of section 65(1);
- (n) respecting matters referred under section 70(5)(c) to the appeal body including the conduct of appeals by the appeal body respecting those matters;
- (o) respecting criteria for the purposes of section 82(3);
- (p) authorizing the making of orders relating to any matters falling within the scope of clauses (a), (d), (j) or (k);
- (q) respecting administrative penalties, including regulations
  - (i) respecting notices of administrative penalty, their form and contents and the manner in which they are required to be given;
  - (ii) respecting the amounts of the administrative penalties that may, subject to section 68(2), be imposed under section 68(1) and respecting factors to be taken into account in setting the amount of an administrative penalty;
  - (iii) respecting appeals from administrative penalties, including regulations authorizing the charging of fees in respect of appeals from administrative penalties and regulations respecting the fees, the amounts of the fees and their disposition;
  - (iv) respecting any other matter the Lieutenant Governor in Council considers necessary or advisable to carry out the

- intent and purpose of the system of administrative penalties;
- (r) respecting elements to be included in a health and safety program under section 37;
  - (s) respecting reports by organizations under section 82;
  - (t) respecting the designation of organizations under section 83;
  - (u) respecting programs under section 84;
  - (v) respecting injuries or incidents or a class of injuries or incidents for the purposes of section 40(2)(f) or (4)(k);
  - (w) respecting service of documents under section 89(6)(a)(i), (ii), (iii) and (iv), (b)(i), (ii), (iii) and (iv) and (c)(i), (ii), (iii), (iv) and (vi), including regulations respecting the electronic methods by which service may be effected, regulations respecting service by recorded mail and regulations respecting when service by recorded mail or an electronic method is deemed to be effective;
  - (x) enabling any particular subject-matter covered by clause (a) to be dealt with by the OHS code;
  - (y) authorizing a research and education program related to prevention of work site injuries and illnesses, including but not limited to
    - (i) authorizing the collection of information from The Workers' Compensation Board,
    - (ii) the use of information collected under subclause (i) in research and educational programming related to prevention of work site injuries and illnesses, and
    - (iii) authorizing the collection and use of information, if the information is related to research and educational programming related to prevention of work site injuries and illnesses;
  - (z) respecting information for the purposes of section 79;
  - (aa) respecting the publication of documents and information for the purposes of section 80;
  - (bb) defining terms used but not defined in this Act;

- (cc) respecting any matter concerning the transition from the previous Act to this Act;
- (dd) respecting any matter the Lieutenant Governor in Council considers necessary and advisable for carrying out the intent and purposes of this Act.

(2) If regulations are made under subsection (1)(l), those regulations operate notwithstanding anything in the *Financial Administration Act*.

#### **Ministerial orders and codes**

**86(1)** The Minister may make an OHS code

- (a) respecting specific health and safety matters for or in connection with occupations and work sites, including
  - (i) reporting requirements and the maintenance and preservation of documents reported,
  - (ii) medical and health requirements,
  - (iii) joint work site health and safety committees and health and safety representatives,
  - (iv) the making available of codes of practice and other information and documents required by the OHS code, and
  - (v) the instruction, supervision and qualifications of specified persons,
- (b) providing for the prevalence of specified provisions of the OHS code over other specified provisions of the OHS code, and
- (c) providing for any matter or thing which by this Act or the regulations may or is to be provided for by the OHS code.

(2) The OHS code may itself adopt or incorporate another specific code (in this section referred to as a “secondary code”) or part of a secondary code, as that secondary code or part exists as at a particular time, dealing with health and safety matters under subsection (1).

(3) Except to the extent that the OHS code provides otherwise, where there is any conflict between any provisions in the OHS code and any provisions in a secondary code, the former prevail against the latter.

(4) The Minister shall ensure that the OHS code is adequately published in such form as the Minister considers will make it reasonably available, which may include publication on the Minister's website, at no expense or at reasonable expense, to all those likely to be affected by it.

(5) An OHS code that is not published in accordance with subsection (4) is not valid against a person who has not had actual notice of the OHS code.

(6) Section 3 of the *Regulations Act* does not apply to an OHS code made under this section.

#### **Provisions affecting the regulations and OHS codes**

**87(1)** Any provision of the regulations or the OHS code may be made to apply generally or to a particular occupation, a work site, a prime contractor, an owner, an employer, a contractor, a service provider, a supplier, a supervisor, a worker, a self-employed person or any class of any such category.

(2) Except to the extent that the regulations provide otherwise, where there is any conflict between any provisions in the regulations and any provisions in the OHS code, the former prevail against the latter.

#### **Notice to a Director**

**88** If a regulation or the OHS code requires a person to give notice to a Director, the person shall use the quickest practical means of communication available.

#### **Service of documents**

**89(1)** In this section,

- (a) "addressee" means the person referred to in subsection (2);
- (b) "document" means the notice or order referred to in subsection (2);
- (c) "receipt" means the standard instrument or electronic signature pad device that is in normal use in the service deliverer's business, a signature on which indicates a person's acceptance of recorded mail handled by that service deliverer;
- (d) "recorded mail" means any form of delivery of notices or other documents by mail or courier in which receipt of the notice or other document must be acknowledged in writing

by the addressee or another individual present at the addressee's address;

- (e) "service deliverer" means the entity that provides the mail or courier service referred to in clause (c).

(2) For the purposes of subsection (1), the written acknowledgment of the document must include the signature on the applicable receipt of the addressee or another individual present at the addressee's address.

(3) The electronic method referred to in this section consists of transmission by facsimile machine to the addressee's facsimile number or by e-mail to the addressee's e-mail address.

(4) For the purposes of this section, service of a document is presumed to be effected,

- (a) if the document is sent by recorded mail, on the date the receipt is signed in accordance with this section, unless the contrary is proved, or
- (b) if the document is transmitted by facsimile machine or e-mail, when it is transmitted, unless it is proved that the facsimile or e-mail containing the document was not received at the addressee's facsimile number or e-mail address, as the case may be.

(5) This section does not apply to documents served in court proceedings.

(6) A notice or other document that is required to be served under this Act may, in addition to any other method provided by law, be served

- (a) in the case of an individual,
- (i) personally or by being left for the individual
- (A) at an address provided by the individual to an officer with an individual present at that address,
- (B) at the individual's residence or last known residence with an individual present at that address, or
- (C) at the individual's workplace or last known workplace with an individual who represents himself or herself as being in charge of that workplace,
- (ii) by ordinary mail or recorded mail sent to the individual

- (A) at an address provided by the individual to an officer,
- (B) at the individual's residence or last known residence,  
or
- (C) at the individual's workplace or last known  
workplace,
- (iii) by facsimile or e-mail sent to the individual at a  
facsimile number or e-mail address provided by the  
individual to an officer for the purposes of service on  
that individual,
- (iv) by being sent to a lawyer or agent who is representing  
the individual on the matter to which the document  
being served relates, or
- (v) as directed by the Court of Queen's Bench on  
application,
- (b) in the case of a corporation,
  - (i) by being left
    - (A) with a director or officer of the corporation,
    - (B) with an individual who represents himself or herself  
as being in charge of a place where the corporation  
carries on business, or
    - (C) with an individual at the registered office of the  
corporation or, for an extra-provincial corporation, at  
the office of the attorney of the corporation,
  - (ii) by being sent by ordinary mail or recorded mail
    - (A) to a place of business of the corporation,
    - (B) to the registered office of the corporation,
    - (C) to a director of the corporation at the director's  
residence or last known residence, or
    - (D) to an address designated by the corporation as its  
address for service under an enactment of Alberta,
  - (iii) by facsimile or e-mail sent to a facsimile number or  
e-mail address provided by a representative of the  
corporation to an officer for service on that corporation,



- (iv) by being sent to a lawyer or agent representing the corporation on the matter to which the document being served relates, or
  - (v) as directed by the Court of Queen's Bench on application,
- (c) in the case of a partnership
- (i) by being left with any partner of the partnership or an individual who represents himself or herself as being in charge of a place where the partnership carries on business,
  - (ii) by being sent by ordinary mail or recorded mail
    - (A) to a place of business of the partnership,
    - (B) to a partner of the partnership at the partner's residence or last known residence, or
    - (C) to an address designated by a partnership as its address for service under an enactment of Alberta,
  - (iii) by facsimile or e-mail sent to a facsimile number or e-mail address provided by a representative of the corporation to an officer for service on that corporation,
  - (iv) by being sent to a lawyer or agent representing the corporation on the matter to which the document being served relates,
  - (v) as directed by the Court of Queen's Bench on application, or
  - (vi) by service on a partner in accordance with clause (b), in the case of a partner that is a corporation.
- (7) Where it is necessary to prove service of any notice or other document in the course of any proceeding or prosecution under this Act, the regulations or the OHS code, service is effected
- (a) if the notice or other document is served personally or left in accordance with subsection (6)(a)(i), (b)(i) or (c)(i), on the date it is served or left,
  - (b) if the document or notice is sent by recorded mail, on the date acknowledgment of receipt is signed,

- (c) if the notice or other document is sent by facsimile, on the date the person sending the notice or other document receives a confirmation of the successfully completed transmission,
- (d) if the notice or other document is sent by e-mail, on the date the e-mail was sent, or
- (e) if the notice or other document is sent by ordinary mail,
  - (i) 7 days from the date of mailing if the notice or other document is mailed in Alberta to an address in Alberta, or
  - (ii) subject to subclause (i), 14 days from the date of mailing if the notice or other document is mailed in Canada to an address in Canada.

**Administration costs**

**90(1)** For the purpose of defraying part of the costs of administering this Act,

- (a) the Minister shall, if authorized by the regulations or the OHS code, make assessments on employers, or
- (b) The Workers' Compensation Board shall, if an agreement is entered into under subsection (2)(b), pay to the Crown amounts that may be prescribed by the Lieutenant Governor in Council.

**(2)** The Minister and The Workers' Compensation Board may enter into an agreement under which the Board is required to either

- (a) collect on behalf of the Crown in right of Alberta assessments made on employers by the Minister, or
- (b) pay to the Crown amounts that may be prescribed by the Lieutenant Governor in Council.

**Liability of officials**

**91** No action or proceeding lies or shall be commenced against the Crown, the Minister, a Director, an officer, the appeal body, an appeal body member or a staff member of the appeal body for anything in good faith done, caused or permitted or authorized to be done, attempted to be done or omitted to be done by that person or by any of those persons pursuant to or in the exercise or supposed exercise of any power conferred by this Act, the regulations or the OHS code or in the carrying out or supposed

carrying out of any order made pursuant to this Act or any duty imposed by this Act, the regulations or the OHS code.

**Act binds Crown**

**92** The Crown is bound by this Act.

**Part 13**  
**Related and Transitional Provisions,  
Consequential Amendments, Repeal  
and Coming into Force**

**Dissolution of Occupational Health and Safety Council**

**93** The Occupational Health and Safety Council referred to in section 6 of the *Occupational Health and Safety Act*, RSA 2000 cO-2, is dissolved and the appointments of members of the council are terminated.

**94** *(This section amends the Occupational Health and Safety Act, RSA 2000 cO-2; the amendment has been incorporated into that Act.)*

**Amends Occupational Health and  
Safety Code 2009**

**95(1)** The *Occupational Health and Safety Code 2009* as adopted by the *Occupational Health and Safety Code 2009 Order* (AR 87/2009) is amended by this section.

**(2)** The following is added after section 1.1:

**Domestic workers**

**1.2(1)** In this section,

- (a) “domestic work” means the normal household work, tasks or chores that are the type routinely performed by members of a household;
- (b) “domestic worker” means a person employed to perform domestic work within a private dwelling by or on behalf of an occupant or owner who lives in the private dwelling.

**(2)** Except as expressly provided in this Code, this Code does not apply to domestic workers.

**Transitional — appeals and reviews**

**96(1)** In this section,

- (a) “amended Act” means the *Occupational Health and Safety Act*, RSA 2000 cO-2, as it reads immediately on and after the coming into force of sections 93 and 94 of this Act;
- (b) “appeal” means an appeal under section 16 of the current Act or the amended Act;
- (c) “appeal body” means the Labour Relations Board under the *Labour Relations Code*;
- (d) “Council” means the Occupational Health and Safety Council under the current Act;
- (e) “current Act” means the *Occupational Health and Safety Act*, RSA 2000 cO-2, as it read immediately before the coming into force of sections 93 and 94 of this Act;
- (f) “new Act” means the *Occupational Health and Safety Act* as enacted by section 1 of *An Act to Protect the Health and Well-being of Working Albertans*;
- (g) “review” means a review under section 35 or 37 of the current Act.

**(2)** If an appeal or a review has commenced under the current Act but is not concluded before the coming into force of the new Act,

- (a) the appeal or review is to be continued under and in conformity with the current Act, including any right of any further appeal, and
- (b) the members of the Council, despite section 93 of this Act, may continue to hear the appeal or conduct the review, as the case may be.

**(3)** If the members of the Council are unable to hear the appeal or conduct the review or to continue to hear the appeal or conduct the review, the appeal body shall hear the appeal or conduct the review, as the case may be.

**(4)** Where

- (a) a right of appeal or review arises under the current Act but an appeal or a review has not commenced before the coming into force of sections 93 and 94 of this Act, or
- (b) a right of appeal or review arises under the amended Act,

the appeal body shall hear the appeal or conduct the review in conformity with the amended Act, including any right of any further appeal.

(5) For the purposes of hearing the appeal or conducting the review under subsections (3) and (4), references to the Council in sections 16, 17, 35 and 37 in the current Act or the amended Act are deemed to be references to the Labour Relations Board.

(6) For the purpose of section 42 of the current Act, a reference to an order of the Council in that section includes an order of the Labour Relations Board, if any.

#### **Transitional — regulations**

**97** The Lieutenant Governor in Council may make regulations providing for the transitional application of the amendments to the *Occupational Health and Safety Act*, RSA 2000 cO-2, made by this Act.

#### **Transitional — regulations, OHS codes and adopted codes**

**98(1)** Any regulation, OHS code or adopted code under the previous Act, as that regulation, OHS code or adopted code read immediately before the coming into force of this section is deemed to have been made or adopted under this Act.

(2) Notwithstanding section 1(w) of this Act, a regulation deemed to have been made under this Act by subsection (1), while still in force, is included in the term “the regulations” so far as it is not inconsistent with the regulations under section 85(1) of this Act.

**Consequential amendment**

**99** The *Body Armour Control Act* is amended in section 2(b) by striking out “an OHS code within the meaning of the *Occupational Health and Safety Act*” and substituting “the *Occupational Health and Safety Act*, a regulation made under that Act or the OHS code within the meaning of that Act”.

**Consequential amendment**

**100** The *Workers’ Compensation Act* is amended

- (a) in section 99 by striking out “39” and substituting “90”;
- (b) by adding the following after section 147:

**Information**

**147.1** The Board may collect information, including personal information, in addition to the information necessary to administer this Act, in order to disclose the information to the Minister responsible for the *Occupational Health and Safety Act* if the information is for research and educational purposes related to the prevention of occupational injuries and illnesses, so long as the collection and disclosure are carried out in accordance with the *Occupational Health and Safety Act*.

**Repeal**

**101** The *Occupational Health and Safety Act, RSA 2000 cO-2*, is repealed.

**Coming into force**

**102** This Act, except for sections 38, 39, 93, 94, 96 and 97, comes into force on June 1, 2018.