

2018 OHS System Changes

*An Act to Protect the Health and
Well-being of Working Albertans*

What's Changed?

- Act, Regulation, and Code
- Anything **new** is in **orange text**

Key Concepts in Canadian OHS Law

- Internal responsibility
 - Everyone in the workplace is responsible for OHS, according to the their authority and control
 - Internal monitoring by HSCs or health and safety representatives
 - External monitoring and enforcement by government

Three Rights

Right to Know

- All employers must inform workers about potential hazards and have access to basic health and safety information on site

Right to Participate

- Ensures workers are involved in health and safety discussions
 - Participation in health and safety committees or as health and safety representatives
 - Hazard assessment and elimination/control

Right to Refuse Dangerous Work

- A worker may refuse to do work where they believe on reasonable grounds it is dangerous to them or others
- The worker must promptly report the refusal to the supervisor or employer
- If the supervisor or employer cannot remedy the issue immediately, they must inspect the dangerous condition with the refusing worker and a member of the HSC or HS representative to resolve the issue/remedy the danger.
- If the matter is still not resolved it may be referred to an OHS officer, who will resolve the matter
- No loss of pay or benefits for worker exercising right to refuse
- Another worker may be assigned to do the work if they are advised of the refusal, the reason for the refusal, and advised of their right to refuse
- Written procedures (Health and Safety Programs)

Workers Protected from Discriminatory Action

- **Discriminatory action** is any action or **threat of action** by any person that would adversely affect a workers with respect to terms or conditions of employment, or opportunity for promotion
 - Includes termination, layoff, suspension, demotion or transfer of a worker, discontinuation of job, change of job location, reduction of wages, change of hours, reprimand, coercion, intimidation or imposition of discipline or penalty
- No person may take any discriminatory action against a worker for fulfilling their duties under legislation or exercising their OHS rights
- Discriminatory action complaints are referred to an OHS officer, who investigates and resolves the complaint
- **Onus is on employer to show action taken against worker was for reason other than fulfilling an OHS duty or responsibility**

Work Site Parties

Work Site Parties

- Employers
- Supervisors
- Workers
- Suppliers
- Service Providers
- Owners (of land or premises of worksite)
- Contractors
- Prime Contractor
- Self-Employed Persons
- Temporary Staffing Agencies

Responsibilities of Work Site Parties

Employers

- Ensure health, safety and welfare of workers and other persons at the work site
- Ensure workers are aware of OHS rights and duties
- Ensure workers are not subjected to or participate in harassment or violence
- Ensure workers have competent supervision
- Ensure workers are properly trained
- Consult and cooperate with HSCs or health and safety representative and resolve issues in a timely manner
- Ensure prime contractor is advised of names of supervisors
- Cooperate with any person exercising duty under legislation
- Comply with legislation

Supervisors

- Ensure they are competent to supervise workers
- Take all precautions to protect worker health and safety
- Ensure workers work accordance requirements of legislation
- Ensure workers use hazard controls and personal protective equipment
- Ensure workers are not subjected to or participate in harassment or violence
- Advise workers of all known or reasonably foreseeable hazards
- Report OHS concerns
- Cooperate with any person exercising duty under legislation
- Comply with legislation

Workers

- Take reasonable care to protect their own health and safety and health and safety of others at the work site
- Cooperate with supervisor, employer, or any other person to protect their health and safety
- Use safety devices and wear personal protective equipment
- Refrain from causing or participating in harassment or violence
- Report OHS concerns
- Cooperate with any person exercising duty under legislation
- Comply with legislation

Contractors

- Person or group of persons who contract with and direct the work of employer or self-employed person
 - Ensure the work site and work processes under their control do not endanger health and safety
 - Advise prime contractor of the names of employers or self-employed persons working under the direction of the contractor
 - Cooperate with any person exercising duty under legislation
 - Comply with legislation

Prime Contractor

- Required on **construction or oil and gas work sites (or a work site designated by a Director)** with 2 or more employers or self-employed persons
- Establish a system to ensure compliance with legislation
- Co-ordinate, organize and oversee work to ensure health and safety of workers and others
- **Ensure their own activities do not create a hazard to the health and safety of others**
- **Consult and co-operate with the HSC or HS representative**
- **Co-ordinate the health and safety programs of employers and self-employed persons on the work site**
- Cooperate with any person exercising duty under legislation
- Comply with legislation

Harassment and Violence

Harassment and Violence Defined

- “harassment” means any single incident or repeated incidents of objectionable or unwelcome conduct, comment, bullying or action that causes 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. sexual solicitations or advance
- but excludes any reasonable conduct of an employer or supervisor in respect of their management of the workers or a work site
- “violence” 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

Violence and Harassment Prevention Plans

- Both plans must include a policy and procedures
- For more info:

Harassment and violence in the workplace

OHS Requirements for workers and employers

Key Information

- Harassment and violence are workplace hazards
- Employers must develop harassment and violence prevention plans
- Employers and supervisors must ensure workers are not subject to nor

Workplace harassment

The OHS Act defines harassment as 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



Domestic Violence

- The employer must take every reasonable precaution to protect workers and any other persons at the work site likely to be affected by domestic violence that comes into the workplace

Joint Work Site Health and Safety Committee (HSC) and HS Representative

www.alberta.ca/work-site-health-safety-committees.aspx

HSC and HS Representative

- Employer or prime contractor required to establish an HSC for a work site with 20 or more workers
 - Director may approve other forms of HSC where necessary
- HS representatives required for work site or project with 5 to 19 workers
- Requirements apply to work that will last 90 days or more

Duties of HSC and HS Representatives

- Receipt, consideration and disposition of health and safety concerns and complaints
 - Participate in hazard identification
 - Develop and promote measures to protect the health and safety at the work site and check effectiveness of the measures
 - Co-operate with an OHS officer
 - Develop and promote programs for OHS education and information
 - Make recommendations respecting OHS
 - Inspect the work site at regular intervals
 - Participate in investigations of serious injuries and incidents at the work site
 - Maintain records of activities and meetings
-
- HS representatives, in cooperation with employer, perform same duties with necessary modifications

Part 13 OHS Code

- Terms of Reference
- HSC must meet within 10 days of being established and quarterly after that
 - Work site inspections have to occur at least once before each quarterly meeting
- HSCs or HS representatives must not disclose a worker's personal health information or any other personal information unless required by law
- Training

Making Recommendations

- When HSC or HS representative makes a recommendation to remedy an OHS matter, the employer or prime contractor:
 - Resolves the matter within 30 days, or
 - Responds in writing how and when the concern will be addressed, or
 - If employer or prime contractor disagree with recommendation, provide reasons for not addressing the matter
- If the matter cannot be resolved, any of the parties can refer it to an OHS officer

Health and Safety Program

Health and Safety Program

- An employer with 20 or more workers is required to establish a health and safety program in consultation with HSC and implement the program
- Program elements:
 - OHS policy
 - Hazard assessment
 - Emergency response
 - Responsibilities of work site parties
 - Schedule and procedure for inspections
 - Procedures to deal with OHS issues when another employer or self-employed person works on site
 - Orientation and training
 - Incident investigation
 - Procedure for worker participation
 - Review and revise program every 3 years or when conditions change
- Smaller workplaces required to involve workers in hazard assessment and elimination/control

Reporting

Flowchart for reporting serious injuries, incidents and potentially serious incidents

Type of event

Reportable Serious Injury or Incident

Incident at a Mine or Mine Site

Potentially Serious Incident

Event Description

- 1) Worker fatality
- 2) Worker admitted to hospital
- 3) Unplanned explosion, fire, flood
- 4) Collapse/upset of crane, derrick, or hoist
- 5) Collapse of building or structure

Includes any of the events listed in section 40(4) of the Act that happen at a Mine or Mine Site.

Any other injury or incident that has the potential of causing serious physical or psychological injury to a person but does not include:

- Reportable Serious Injuries or Incidents
- Incidents at a Mine or Mine Site

Duty to report

Report injury or incident as soon as possible to the OHS Contact Centre

- 1-866-415-8690 (780-415-8690 in Edmonton)
- TTY: 1-800-232-7215 (780-427-9999 in Edmonton)

Report the time, place and nature of the incident as soon as possible using the PSI Online Reporting Service



<https://www.alberta.ca/report-potentially-serious-incidents.aspx>

Potentially Serious Incidents (PSI)

- Is an incident where a reasonable and informed person would determine that:
 - the injury sustained requires medical attention beyond first aid;
 - an incident could have caused serious injury and
 - the hazard was not identified in the hazard assessment; or
 - the identified hazard had not been reasonably controlled
- Includes potential physical and psychological injuries

PSI Reporting



- [Report a Potentially Serious Incident online.](#) 
- Download and submit the [PSI Investigation Report](#)  the investigation and corrective actions were not completed at the time the PSI report was submitted.

- WCB number
- Description of incident and corrective actions, if applicable
- Number and description of injured or potentially injured workers
- Number of total people at the worksite

A sufficiently completed PSI online form meets the requirements of an incident investigation for the purposes of the OHS Act.

OHS does not require your internal investigation report to be submitted.

Enforcement and Compliance

Enforcement Tools

- Order to remedy unhealthy or unsafe conditions
 - Must identify contravened provision of legislation
 - State reasons for order
 - Require corrective measures within specified period of time
 - OHS officer may extend the timeframe for compliance
 - Order remains in effect until compliance achieved or the order is withdrawn by the officer or revoked on review or appeal

Stop Work/Stop Use Orders

- Stop work orders
 - Issued when OHS officer determines there is a danger to health and safety
 - Orders can stop work, or any part of the work, clear the work site and require measures to remove the source of danger
 - Stop work order may be issued on multiple work sites of an employer
- Stop use orders
 - Issued when OHS officer determines equipment is not safe to operate or a harmful substance is not safe to use
 - Equipment subject to order may not be sold, rented, leased or transferred
 - OHS officer may order supplier to stop supplying the unsafe substance or material
- Affected workers may be reassigned to other work, but receive the same wages and benefits

Report on Compliance

- The person who received an order is required to:
 - Report to the OHS officer on the measures taken or planned to be taken to remedy the contravention within 7 days of compliance date specified in order
 - Provide a copy of the report to the HSC or HS representative, if one exists
 - Post the report at the work site

Review of Orders

- Director review (Informal)
- Alberta Labour Relations Board (Formal)

Request for Director review of an OHS officer's order or decision

OHS information for employers and workers



Request for Director review of an order and/or decision

Section A: Requestor Information (please print)			
I am requesting a Director Review of:			
<input type="checkbox"/> an Order issued s.59, 60, 61 (compliance order, Stop Work, Stop use)		<input type="checkbox"/> a Decision under s.32(3)(c), or s.32(4) (dangerous condition - work refusal)	
Name: (individual, business, organization)			
Contact Name: (if applicable)		Position (if applicable)	
Address:			
Town / City		Postal Code	
Telephone #: (home or business)			Fax #:
Email address: (if available)			
Please provide the following information (failure to provide this information may result in processing delay)			



OCCUPATIONAL HEALTH AND SAFETY NOTICE OF APPEAL

APPLICABLE SECTIONS:
- 71 OF THE OHS ACT, c O-2.1

KEY INFORMATION

- Prior to initiating a request for Director review, Alberta OHS encourages you to contact the OHS officer, or manager to discuss the rationale and reasoning for the order or decision.
- Once a request for Director review is undertaken, you may request a stay (suspension) of the decision or order under review.
- The Alberta Labour Relations Board (ALRB) is responsible for hearing appeals of decisions arising from a Director Review.

Requesting a review of an OHS officer order(s) or decision(s)

The request for review must be made in writing using the form "Request for Director Review of an Order/Decision".

It must be submitted within 30 calendar days of receipt of the order or decision. Requests sent by mail must be postmarked within 30 days to be considered received within the legislated 30 day allowance.

A request for review must have the following:

- The completed form requesting a review.
- A copy of the order or decision.
- The reason for the review request.
- The parties and contact information of any person(s) affected by the order or decision.
- Any supporting documentation the requestor wishes to have considered in the review.

- Form OHS1 (June 2018). Please type or print clearly.
- All parts of this form must be properly completed for the appeal to be commenced.
- **You must attach and send a copy of the document being appealed to this form.**
- Before completing this form, you are strongly advised to read the Alberta Labour Relations Board's *Rules of Procedure for Occupational Health and Safety Appeals* – available on our website at: http://alrb.gov.ab.ca/ohs/bulletins/ohs_rulesofprocedure.pdf
- **Individuals filing appeals may be identified by name at various stages of the Board's procedures** including in Board decisions, on the Board's website, and in print and online reporting services that publish the Board's decisions. An exception to this general practice may be made, at the discretion of the Board, in cases where sensitive personal information will be disclosed. Individuals wishing to have their names masked may apply to the Board by letter setting out the reasons for the request including what sensitive personal information will be disclosed. This request should be made early on in the processing of the application.
- Any personal information provided herein is collected under the authority of section 33(c) of the *Freedom of Information and Protection of Privacy Act* (FOIP), for the purpose of processing your application to the Labour Relations Board. Any further personal information received in written or oral submissions will be collected under that authority. The collection, use and disclosure of this information is managed pursuant to FOIP. Any information provided to the Board that is relevant to the application must in the normal course be provided to all affected parties to the application, so all parties know the case to be heard and have an opportunity to respond. Questions about the collection or use of personal information can be posed to the Board Officer appointed to your file, or the Board's FOIP Coordinator at 501, 10808 99 Avenue, Edmonton, AB, T5K 0G5, or (780) 422-5926.

Offences and Penalties

- Penalties:
 - First offence: fine of not more than \$500,000/ for continuing offence, a further fine of not more than \$30,000 each day the offence continues
 - Imprisonment for up to 6 months
 - Second or subsequent offence or failure to comply with stop work order: fine of not more than \$1 million, and for a continuing offence a further fine of not more than \$60,000/day
 - Imprisonment up to 12 months
- Additional powers of court to make directions
 - Expands the range of creative sentencing options that the court can impose and allows the court to provide oversight

Next Steps

- There are some additional details coming that will provide greater clarity on specific requirements.
 - HSCs and HS representatives: Training curriculum and approved organizations

Questions?

Thank you

www.alberta.ca/ohs