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Guide to the Nova Scotia Labour Standards Code

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Guide to the Nova Scotia Labour Standards Code
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Purpose of this Guide

The purpose of this Guide is to help people understand how Nova Scotia Labour Standards legislation applies to employment relationships, and the role of the Nova Scotia Labour Standards Division in enforcing the legislation.

The Guide provides information on many Labour Standards topics, as follows:

Purpose of this Guide 3
Introduction to Labour Standards 4
Protecting Pay 6
Minimum Wage 8
Deductions from Pay 11
Vacation Time and Vacation Pay 12
Overtime Pay 14
Holiday Pay 16
Retail Closing Days and the Right to Refuse to Work 19
When the Employer Ends the Employment 22
When the Employee Ends the Employment 27
Leaves from Work 29
Hours of Labour (Period of Rest, Breaks) 41
Employment of Children 43
Foreign Worker Recruitment and Employment 45
Records 48
Labour Standards Complaint Process 50
Contact Information 52

Important Note:

This Guide deals only with Nova Scotia Labour Standards legislation. There are other laws that might apply to employment relationships such as Occupational Health and Safety (OHS) legislation and Human Rights legislation. Also, people might have recourse through the courts to deal with workplace issues. For example, an employee might file a court claim against their employer seeking damages for wrongful dismissal. Or an employer might file a court claim against an employee to recover a debt the employee owes the employer.

Introduction to Labour Standards

Labour Standards Division

The Labour Standards Division administers provincial Labour Standards legislation by providing awareness sessions and presentations to employers, employees and recruiters; investigating and resolving Labour Standards complaints; auditing pay and recruitment records; and answering inquiries from the public by phone, email and in person.

What the Legislation Does

Labour Standards legislation establishes the minimum employment rules in Nova Scotia that employers and employees must follow. It includes rules specific to recruiting workers and hiring foreign workers.

These rules also include minimum standards for wages, deductions from pay, vacation pay, overtime pay, holidays with pay, leaves, ending employment, and other things. It is not legal for employers and employees to agree to terms, conditions, and benefits that offer less than the legislation offers. However, employers can give their employees greater benefits than those in the legislation.

Employees, employers and recruiters have rights and responsibilities under these rules. A person who feels they have not received a benefit under the legislation can contact Labour Standards about filing a Labour Standards complaint (see also section on *Labour Standards Complaint Process*).

Generally, Labour Standards legislation applies to:

- employers whose business is regulated by the provincial government
- employees who work for an employer regardless of the number of hours of work, e.g., permanent, full time, part time, casual, seasonal
- recruiters who assist individuals, including foreign workers, in finding work in Nova Scotia and the individuals they assist

However, not all employees are covered by all areas of the legislation. The rules can be complicated. If you have any questions, contact the Labour Standards Division.

The legislation does not apply to:

- employers whose business is regulated by the federal government
- people who are self-employed or an independent contractor
- employees who do domestic service for or give personal care to an immediate family member in a private home and are working for the householder (foreign worker protections *do* apply to this group)

- employees who do domestic service for or give personal care in a private home and are working for the householder for 24 hours or less per week (foreign worker protections *do* apply to this group)

As well, we do not process complaints from:

- unionized employees who have access to a grievance process to get what they are entitled to under their collective agreement

Discrimination under the *Labour Standards Code*

It is against the law to fire, layoff, or discriminate in any way against an employee because they:

- made a complaint, or assisted another employee in making a complaint, under the *Labour Standards Code*
- were about to make an inquiry about their rights or another employee's rights under the *Labour Standards Code*
- initiated an inquiry, investigation or proceeding, or assisted another employee in initiating an inquiry, investigation or proceeding under the *Labour Standards Code*
- testified or were going to testify (or if the employer believes that person is going to testify) in any investigation or hearing that takes place under the *Labour Standards Code*
- disclosed or were about to disclose information that is required under the *Labour Standards Code*
- discussed or disclosed information in the workplace about their wages or the wages of another employee, as permitted by the *Labour Standards Code*
- took or said they were intending to take (or if the employer believes the employee will take) a leave of absence that an employee may take under the *Labour Standards Code*
- exercised their right to refuse to work on Sundays or Retail Closing Days
- need to have their wages garnished

Six Months Limitation Period

Complaints must be filed with the Nova Scotia Labour Standards Division within six months of a violation of the Nova Scotia *Labour Standards Code* taking place for the Division to have the authority to address the complaint. For example, an employee begins a new job and regularly works overtime hours without receiving overtime pay. Eleven months later, the employee ends their employment and files a complaint with Labour Standards claiming overtime pay dating back to the beginning of their employment. If Labour Standards finds the employer violated the overtime pay provisions of the Code, Labour Standards can only order the employer to pay overtime pay owed within the 6-month period preceding the date the employee filed their complaint.

Protecting Pay

The *Labour Standards Code* says that employees must be paid for their work. In most cases they must earn a minimum hourly rate as set by the minimum wage orders. There are also strict rules about the types of deductions employers can make from employees' pay (see also sections on *Minimum Wage* and *Deductions from Pay*).

Types of Pay

Pay includes wages (e.g., hourly, salary, commissions, piecework, holiday pay, overtime pay and non-discretionary bonuses) and vacation pay. Pay does not include tips and gratuities. Tips and gratuities are not protected by the *Labour Standards Code*.

Frequency of Pay

The *Labour Standards Code* says that:

- employees must be paid at least two times each month
- employees must be paid within five working days after the end of the pay period
- if an employee is not at work when they would normally be paid, or is not paid for any other reason, then that employee must be paid when they ask for it at any time during regular working hours

Forms of Payment

Employers must pay employees by cheque, cash, money order, email transfer or direct deposit.

Equal Pay for Equal Work

An employer cannot pay an employee — who is doing **substantially the same work** as another employee — a different rate of pay based on gender. This rule applies not only to employees who identify as female or male but also employees who do not identify exclusively, or at all, with the gender binary of female or male. Employers may pay different rates of pay only if the difference in pay between employees of different genders is based on:

- a seniority system that pays more experienced employees a higher rate of pay than less experienced employees
- a merit pay system that pays employees more based on a system that objectively measures employees' performance
- a system that pays employees more based on the quality and/or quantity of the work they produce
- a factor other than gender

For example, an employer can hire employees of different genders to do the same job and offer them a different rate of pay based on their level of education and previous work experience. Another example, employees of different genders doing the same job could be paid a different rate of pay because one of the employees works the night shift and the other does not.

If employees have not been paid equal pay for equal work, employers must raise wages, not lower them, to achieve equal pay.

The equal pay rules in the *Labour Standards Code* are different from pay equity or equal pay for work of equal value. For questions about pay equity, contact the Nova Scotia Human Rights Commission.

Equal Pay: Wage History and Pay Secrecy

Employers sometimes ask job applicants about their wage history to determine the applicant's value to the business and give the employer a sense of what compensation the job applicant might be expecting. This practice can perpetuate unfairness for individuals whose pay history reflects unequal pay based on their gender. To address this issue:

- Employers are not allowed to ask about the wage history of a job applicant or employee. Individuals can, however, voluntarily choose to provide an employer with confirmation of their wage history by providing the employer with written authorization to obtain the information from the individual's current or former employer.
- Employers are not allowed to require that a job applicant's wage history meet criteria set by the employer such as a minimum or maximum level.
- Recruiters hired by or operating under a contract with an employer to help the employer fill a position must also follow these rules.

Some employers forbid employees from discussing their pay with others in the workplace. Pay secrecy rules can prevent employees from identifying situations of unequal pay. To address this issue:

- Employers are not allowed to keep employees from discussing or disclosing information in the workplace about their own wages or the wages of other employees.
- Employers are not allowed to discipline, fire or discriminate in any other manner against employees because they have discussed or disclosed information in the workplace about their own wages or those of other employees as permitted by the *Labour Standards Code*.

Meetings and Hours

Employees are required to be paid for time they spend doing work at the employer's request. Examples: If an employee is required to attend a work-related meeting, that time may be considered work. If an employer requires an employee to stay beyond the scheduled shift to conclude business (such as to close cash, clean, etc.) that may also be considered work.

Minimum Wage

There are three minimum wage orders:

- Minimum Wage Order (General)
- Minimum Wage Order (Construction and Property Maintenance)
- Minimum Wage Order (Logging and Forest Operations)

This section deals with the Minimum Wage Order (General). There are separate minimum wage orders for employees employed in construction and property maintenance as well as those employed in logging and forest operations. For information on those minimum wage orders, contact Labour Standards.

Minimum Wage Order (General)

The Minimum Wage Order (General) sets the minimum wage rate, which is the least amount of money an employer must pay an employee for each hour of work. It also sets employment standards for the following:

- overtime, for some groups
- being called into work at times other than scheduled working hours
- employees waiting for work on the work premises
- piecework
- deductions for board, lodging, and meals
- deductions for uniforms

Minimum Wage Rate

As of April 1, 2025, employers must pay employees at least $15.70 per hour.

Overtime

The Minimum Wage Order (General) contains overtime requirements for some groups. Overtime is also addressed in the *Labour Standards Code* and in the Construction and Property Maintenance Minimum Wage Order (see *Overtime* section of this document).

Call In

If an employee is called in to work outside the employee's regular work hours, the employer must pay the employee for at least three hours of work at the minimum wage rate, that is, at least $47.10 ($15.70 x 3 hours). This is true even if the employee works only one or two hours. For example, if the employee makes $17 per hour and the employee is called in for one hour's work, the employer must pay the employee at least $47.10.

Waiting for Work

Employees must be paid at least minimum wage for all time spent at the workplace, at the request of the employer, waiting to perform work. For example, an employee who works at a restaurant is told by the supervisor to be at work by 8:00 am. The employee arrives at work at 8:00 am but does not actually start performing work until 9:00 am when the restaurant gets busy. The employee works serving tables from 9:00 am to 1:00 pm and then leaves for the day. In this situation, the employee would be entitled to pay at the minimum wage rate for the time the employee spent waiting for work from 8:00 am to 9:00 am. The employee would be entitled to their regular rate of pay for those hours worked between 9:00 am and 1:00 pm.

Piecework

Many employers in Nova Scotia pay employees by the amount they produce and not by the hour. This arrangement is called "piecework." The Minimum Wage Order (General) says that an employer cannot pay an employee less for piecework than that employee would have earned at the minimum wage for the number of hours worked. For example, an employee is paid $9 for each hat the employee sews. During a one-week period the employee produces 40 hats. The employee is entitled to be paid: $9 per hat x 40 hats, or $360. To produce the 40 hats, the employee worked 30 hours. At the minimum wage the employee would have earned $471 ($15.70 x 30 hours of work). The employee is entitled to be paid at least the same as if the employee was being paid the minimum wage for each hour worked. The employee is, therefore, owed an additional $111 ($471-$360).

Note this rule does not apply to employees employed on a farm whose work is directly related to harvesting fruit, vegetables, and tobacco.

Board and Lodging

The Minimum Wage Order (General) tells employers how much they can take from an employee’s minimum wage for board and lodging the employer provides. These amounts are as follows:

For board and lodging for each week: $68.20

For board only for each week: $55.55

For lodging only for each week: $15.45

For a single meal: $3.65

Note, an employer cannot charge an employee for a meal not received

For employees paid more than the minimum wage, the deductions could be larger in total than the above amounts, but they must not bring the employee below the minimum wage by more than the above amounts.

Deductions for Uniforms

If an employer requires employees to wear uniforms, aprons, or smocks, the employer may not take the cost of the uniform from the employees' wages if doing so will take their hourly rate below the minimum wage. For example, if an employee works 30 hours each week earning $16.50 per hour then the employee earns $495 ($16.50 x 30) each week. If the employer takes $25 off the weekly pay for a uniform, then the employee will have earned $470 that week, or $15.67 per hour (470 ÷ 30). Since $15.67 per hour is below the minimum wage, the employer cannot take that much from the employee's wages for the cost of the uniform.

The employer may take from the employee’s wages the cost of dry cleaning a uniform that is made of wool or a heavy material. The employer may do this even if the employee’s wages then fall below minimum wage.

Employees Not Covered by the Rules

The minimum wage rules do not apply to the following employees:

- certain farm employees
- apprentices employed under the terms of an apprenticeship agreement under the Apprenticeship and Trades Qualifications Act (see NS Apprenticeship Agency)
- anyone receiving training under government sponsored and government approved plans
- anyone employed at a non-profit playground or summer camp
- real estate and car salespeople
- commissioned salespeople who work outside the employer’s premises, but not those on established routes
- insurance agents licensed under the Insurance Act
- employees who work on a fishing boat
- employees who fall under the minimum wage orders concerning Logging and Forest Operations and Construction and Property Maintenance
- athletes while engaged in activities related to their athletic endeavour
- other workers: see page 4-5

Deductions from Pay

Employers make deductions from pay for various reasons. Often these deductions are lawful, but sometimes they are not.

Lawful Deductions

Lawful deductions include:

- statutory deductions (income tax, CPP, EI)
- court ordered deductions (for example, garnishment)
- those that provide a benefit to employees (for example, health plans)
- charges for board and lodging as authorized by the Minimum Wage Orders
- recovery of pay advances, overpayments
- deductions for employee purchases from the employer's business on account, if there is a clear agreement between the employee and the employer that these can be deducted
- deductions for dry cleaning of woolen or other heavy material uniforms

These deductions can be made even if they bring the employee's wages below the minimum wage.

Other Deductions

Some employers make deductions from employees' pay for losses, shortages, damage, etc. Also, some employers make deductions for employee debts that are not for purchases on account. These deductions:

- must not take the employee's gross wages below minimum wage
- must be authorized by a clear agreement between the employer and the employee (deductions are authorized by the employee when there is a written agreement or when the employee has acted in a way that shows the employee accepts the deduction - we recommend that employers use written authorizations for all such deductions)

If the deduction is for losses incurred while the employee is working, it must be supported by a written authorization by the employee. The authorization should be made in advance, ideally when the employee is hired. Authorizations made after the loss occurs will be open to challenge. The authorization should specify the kind and amount of deductions that will be made. It should be dated and signed by the employee. If the deduction is for losses caused by customers leaving the employer's business without paying for goods or services, the employer must be able to show that the loss is the fault of the employee.

Recovery of Recruitment Costs

Individuals who recruit workers for employment in Nova Scotia cannot charge the workers, including foreign workers, a fee for recruitment related services. Employers cannot make deductions, directly or indirectly, from employees' pay to cover the costs of recruiting.

Vacation Time and Vacation Pay

The *Labour Standards Code* says that employers must give employees both vacation time and vacation pay.

Vacation Time

Earning Vacation Time

Employers must give employees vacation time of two weeks after each period of 12 months of work and must give the vacation time within 10 months following the 12-month earning period. In their ninth year of service (having completed 8 years), the employee must receive three weeks' vacation time.

Taking Vacation Time

Employers decide when employees will take their vacation time. Employers must tell employees when their vacation will begin at least one week before it begins. Many employers let their employees choose when to take vacation time; however, the employer has the final say.

Employees who work full time must take vacation time. Employees who work less than 90 percent of the regular working hours during the 12 months when they earned vacation can give up vacation time and just collect their vacation pay (see below for information on vacation pay). When an employee tells an employer in writing that the employee will give up vacation time, the employer must pay the employee vacation pay no later than one month after the date the 12 month earning period ends.

Vacation Time May Be Broken

If the employer and employee agree, the vacation time may be broken into two or more vacation periods, if the employee receives a full two weeks' vacation (or three weeks in their ninth year onward), and the employee receives at least one unbroken week of vacation.

Vacation Pay

Earning Vacation Pay

An employee earns vacation pay during the first 12 months of work for an employer and every 12 months after that. Employee status does not affect vacation pay (full-time, part-time, seasonal, etc.). Employers must pay employees vacation pay of at least 4 percent of gross wages[1]. Vacation pay earnings increase to 6 percent of gross wages at the start of an employee's eighth year of service (after completing 7 years).

[1] Wages includes salaries, commissions, and most other forms of compensation except vacation pay.

Paying Vacation Pay

An employer can pay vacation by:

- accumulating the vacation pay over the 12-month earning period and paying it out to employees at least one day before they take their vacation time - note an employee can ask for accumulated vacation pay earlier but the employer does not have to provide it until one day before the employee's vacation.
- adding the vacation pay to each cheque, or
- including the vacation pay in with the employee's hourly rate - in this case, the employer must ensure the employee's rate of pay is at least minimum wage plus 4 percent, or 6 percent for employees from the start of their eighth year (after completing 7 years)

The employer must make it clear to each employee how they are being paid their vacation pay. The employer can do this, for example, by showing accumulated vacation pay on every pay stub, showing on the paystub that vacation pay is paid out with each pay, by having employees sign a clear statement acknowledging they are aware that vacation pay is included in their hourly rate of pay, or by stating on each paystub that vacation pay is included in the hourly rate of pay.

Employees do not earn wages when they take their vacation time. Vacation pay is intended to be the employee's pay during their vacation time, even if the employee receives vacation pay on each pay.

If an employee's job ends and the employee has accumulated vacation pay, the employer must pay the accumulated vacation pay within 10 days after the employment ends.

If there is a dispute and the employer cannot show vacation pay was paid, the employer will normally have to pay the vacation pay (see also information section on *Records*).

Employees Not Covered by the Rules

The rules on vacation time and vacation pay do not apply to the following employees:

- real estate and car salespeople
- commissioned salespeople who work outside the employer's place of business, but not anyone with an established route
- a salesperson who sells mobile homes
- employees who work on a fishing boat
- athletes while engaged in activities related to their athletic endeavour
- other workers: see page 4-5

Overtime Pay

The general rule for overtime is that employees are entitled to receive 1½ times their regular wage for each hour worked after 48 in a week. A week is defined as a consistent seven-day period, e.g., Monday to Sunday, Wednesday to Tuesday. For example, if an employee makes $16 per hour, that employee would make $24 per hour for every hour worked over 48 hours.

These rules also apply to some salaried employees. Certain industries are characterized by irregular working hours and conditions and do not follow the general rule. Some have special rules about overtime and some others are not covered by overtime.

Special Rules

Some groups of employees have special rules to deal with overtime, called wage orders. The jobs covered by these wage orders are listed below.

Minimum Wage Order (General)

The following groups of employees receive overtime at 1½ times the minimum wage after 48 hours worked in a week:

- oil and gas employees (but not those in retail)
- managers, supervisors, and employees employed in a confidential capacity. This includes managers and supervisors in the construction industry
- primary fish, aquaculture and agricultural processors (but not meat)
- flat-rate auto mechanics/auto body technicians
- some types of professionals and their trainees
- information technology (IT) professionals (but not employees who provide basic operational/technical support)
- shipbuilders and related employees (but not those in retail)
- transport (*this group receives overtime after 96 hours in a 2-week period*)

Minimum Wage Order (Construction and Property Maintenance)

The following groups of employees receive 1½ times their regular wage after 110 hours worked over a two-week period:

- those constructing, restoring or maintaining roads, streets, sidewalks, structures (such as buildings) or bridges
- those doing paving of all sorts
- water and sewer installers
- landscapers and snow removal employees
- sawmill employees
- metal fabricators and machine shop employees

For example, these employees could work 60 hours one week and 50 hours the following week without earning overtime because the combined hours do not exceed 110.

Note: For municipal employees doing street construction, restoration or maintenance work, overtime is 1.5 times their regular rate after 48 hours in a week; if these employees are unionized the collective agreement applies instead.

Employees Not Covered by the Rules

The overtime rules do not apply to the following employees:

- most farm employees
- apprentices employed under the terms of an apprenticeship agreement under the Apprenticeship and Trades Qualifications Act (see NS Apprenticeship Agency)
- anyone receiving training under government sponsored and government approved plans
- anyone employed at a non-profit playground or summer camp
- real estate and car salespeople
- commissioned salespeople who work outside the employer's premises, but not those on established routes
- insurance agents licensed under the Insurance Act
- employees working on a fishing boat
- employees in the logging and forest industry
- live-in health care and live-in personal care providers
- janitors and building superintendents in buildings that include their residence
- athletes while engaged in activities related to their athletic endeavour
- employees who work under a collective agreement
- other workers: see page 4-5

Fixed Cycle Averaging Agreements

An employer and employee may agree to average the employee's hours of work over a number of weeks - where there is a pre-determined, fixed cycle of work that repeats over a specific period and provides for extended time off. This means the employer would not need to pay overtime based on the number of hours the employee works in one week. Instead, overtime would be based on hours exceeding the total regular hours worked in the cycle. For example, if the cycle is 4 weeks (48 x 4 = 192) then overtime is payable once the employee exceeds 192 hours of work during the four-week cycle.

There are conditions that must be met for employers and employees to do this: see our website or contact Labour Standards for information on this.

Holiday Pay

The *Labour Standards Code* gives employees who qualify six holidays with pay: New Year's Day, Nova Scotia Heritage Day, Good Friday, Canada Day, Labour Day, and Christmas Day.

Note: A separate law covers Remembrance Day; it is explained at the end of this section.

Qualifying for Paid Holidays

To qualify for these holidays, an employee must:

1. be entitled to receive pay for at least 15 of the 30 calendar days before the holiday, and
2. have worked on their last scheduled shift or day before the holiday and on the first scheduled shift or day after the holiday

First, during the 30 calendar days right before the holiday, the employee must be entitled to receive pay for 15 of those days. This does not mean that the employee must have worked 15 out of 30 days. The important words to remember are "entitled to receive pay." For example, if an employee is sick and the employer has a paid sick time policy, or if the employee is attending a course and is being paid wages for attending, or if the employee has recently taken vacation time, the employee may still qualify for the paid holiday.

Second, the employee must have worked on their last scheduled shift or day before the holiday and on their first scheduled shift or day after the holiday. The important word to remember is "scheduled." Many people believe this means that if the employee does not work the day after the holiday then the employee does not qualify to receive holiday pay. If the day is one when the employee is not scheduled to work, then they may still qualify for the paid holiday.

Note: If an employer tells an employee not to report for work on their last scheduled work day immediately before the holiday, or their next scheduled work day after the holiday, then the employee is still entitled to receive holiday pay if they meet the first qualification.

Paying an Employee for a Holiday

If an employee qualifies for the holiday and is given the day off, the employer must pay a regular day's pay for that holiday. If the employee's hours of work change from day to day the employer should average the hours worked over the 30-day period immediately before the holiday to calculate what to pay the employee for the holiday. For example:

- if an employee worked 20 of the 30 calendar days before the holiday for a total of 170 hours, the calculation would be as follows: 170 ÷ 20 = 8.5 average hours worked per shift

Earned commissions are wages under the *Labour Standards Code*. If an employee regularly earns commissions as part of their compensation, commission earnings must be included when calculating a regular day's pay for the employee. For example:

- if an employee worked 17 of the 30 calendar days before the holiday and earned a total of $2040 in wages (including commissions), the calculation could be as follows:
  $2040 ÷ 17 = an average day's pay of $120

Note: Employees earn vacation pay on the wages they receive for a holiday.

When the Holiday Falls on an Employee's Regular Day Off

If the employee qualifies for the holiday and the holiday falls on the employee's regular day off, the employer must give the employee a different day off with pay. The employer can give the day off with pay on the working day immediately following the holiday, the working day immediately following the employee's vacation, or another day agreed upon by the employee.

Calculating Holiday Pay When the Employee Works on a Holiday

An employee who works on a holiday and who qualifies to be paid holiday pay is entitled to receive both of the following:

- a regular–or average–day's pay (see Paying an Employee for a Holiday, previous section), and
- one and a half times the employee's regular rate of wages for the number of hours worked on that holiday

When the Employee Works on a Holiday in a Continuous Operation

A continuous operation is:

- any industrial establishment in which production continues without stopping
- any service that runs trucks and other vehicles
- any telephone or other communications service
- any service or production in which employees normally work on Sundays or public holidays

In a continuous operation, the employer can pay for holidays worked in one of two ways:

- according to the calculation already described, or
- by paying straight time for the hours worked and giving the employee a different day off with pay (the employer can give the day off with pay on the working day immediately following the employee's vacation or another day agreed upon by the employee)

Note: An employee in a continuous operation will not be entitled to holiday pay if they do not report for work on the holiday after being called upon to work that day.

Employees Not Covered by the Rules

The holiday pay rules do not apply to the following employees:

- most farm employees
- real estate and car salespeople
- commissioned salespeople who make sales at locations other than at the employer's premises, except those on an established route
- employees who work on a fishing boat
- employees who work in the manufacturing or refining processes of the petrochemical industry
- athletes while engaged in activities related to their athletic endeavour
- employees who work under a collective agreement
- other workers: see page 4-5

Remembrance Day

An employee who works on Remembrance Day and who is entitled to receive wages for at least 15 of the 30 calendar days immediately before Remembrance Day may be entitled to receive another day off with pay. That day with pay may be taken at the end of the employee's vacation or any other day the employee and employer may agree upon.

Retail Closing Days and the Right to Refuse to Work

Retail Closing Days

Some retail businesses are not allowed to open on certain days of the year. These days are:

- New Year's Day
- Nova Scotia Heritage Day
- Good Friday
- Easter Sunday
- Canada Day
- Labour Day
- Thanksgiving Day
- Christmas Day
- Boxing Day

The Right to Refuse to Work

The *Labour Standards Code* gives employees of these retail businesses the right to refuse to work on the closing days listed above. For example, if a retail business were to schedule an employee to stock shelves while the business was closed on New Year's Day, the employee could refuse to work on that day.

The *Labour Standards Code* also gives employees of these same retail businesses the right to refuse to work on Sundays.

Employees who have agreed to work on Sundays or closing days must give their employer seven days' notice of their intent not to work on Sundays or closing days in general or on a particular Sunday or closing day. If an employer provides an employee with less than seven days' notice that the employee is scheduled to work on a Sunday or closing day, the employee must notify the employer of their intent not to work that day, within two days of being informed of the schedule.

Employees who have the right to refuse to work are protected against retaliation and can be reinstated to their job with back pay if they are fired because they refused to work on Sundays or closing days.

Exceptions

Retail businesses that are not required to close and whose employees do not have the right to refuse to work on closing days and Sundays include:

- grocery stores that at no time operate in an area greater than 4000 square feet (note if two or more stores selling groceries are owned by related persons and are in the same building or are adjacent or near one another, they are considered one store for the purposes of determining whether the store must close and whether employees have the right to refuse to work)

- drug stores if they do not have more than 2000 square feet dedicated to food items, are not larger than 20,000 square feet in total, and are not in a department store
- farm sales of agricultural products
- Christmas tree sales
- retail gas stations (motor vehicle service stations)
- restaurants, bars, taverns etc., and tourism/hotel services
- confectionary stores
- stores selling handicrafts and souvenirs to tourists
- canteens
- fruit and vegetable stands selling local produce
- flea markets and rummage sales
- retail fish stores
- laundromats
- billiard and pool halls
- video or DVD rental places
- modular (prefabricated) home sales
- nursery and plant stores
- art galleries
- antique stores
- the sale of books, newspapers, magazines
- used clothing stores
- private clubs, veterans and other clubs, but not clubs set up for retail sales
- public games for gain and reward
- public performances, cinemas
- excursions
- car rental and boat rental operations
- buses, trains and other modes of transportation
- ferry operations
- telephone and telegraph operations
- broadcasting
- newspaper publication
- retail businesses providing goods and services on an emergency basis

Note: The right to refuse to work on closing days and on Sundays does not apply to employees who work under a collective agreement.

Making a Complaint

If an employee feels they are not going to be given the right to refuse to work under these rules, contact the Labour Standards Division right away. Labour Standards will try to resolve the matter.

Remembrance Day Closing Rules

Remembrance Day has different closing rules. Generally, retail businesses are required to close on Remembrance Day, with some exceptions. Check to see how the Remembrance Day Act applies to your business or employer using the online Remembrance Day assessment tool.

When the Employer Ends the Employment

Under the *Labour Standards Code*, employers must tell an employee in writing that they will fire or suspend or lay off that employee. This is called giving notice. “Notice” is the letter telling the employee they will no longer work for the employer after a given date. It is also the time between when the employee receives the letter and the date the letter says is the employee’s last day of work. How much notice an employer must give an employee depends upon how long the employee was employed. The following table shows the notice times for each period of employment.

Written Notice Requirements

If the employee has a period of employment of	**The employer must give**
3 months or more but less than 2 years	1 week
2 years or more but less than 5 years	2 weeks
5 years or more but less than 10 years	4 weeks
10 years or more	8 weeks*

*The rules are different for employees of ten years or more (see subsection below on *Employees with 10 Years of Service*).

If the employer does not want to give the employee notice, the employer must give the employee pay in lieu of (in place of) notice. This means that the employer must pay the employee as much pay as they would receive if that employee worked during the notice period. Pay in lieu of notice is due, as one lump sum, within five working days after the expiration of the pay period in which the termination occurred (generally the employee’s regular pay day).

Periods of Employment/Length of Service

An employee’s period of employment (how long they worked for the employer) may be broken because the employee is laid off, suspended, or fired. The *Labour Standards Code* states that an employee's period of employment is considered unbroken unless it is broken:

- by 12 months or more of lay off or suspension
- by more than 13 weeks that resulted from the employer firing the employee

Also, if an employee quits and is rehired, their period of employment is broken, and they start a new period of employment based on their rehire date.

When the Employer Gives Notice

When an employer has given the employee proper notice that the job is ending, the employer:

- may not change the employee's rate of pay or any other condition of employment, such as benefits
- may not require the employee to use remaining vacation during the notice period unless the employee agrees
- must pay the employee all the wages they are entitled to receive (within 5 working days after the end of the pay period in which the final wages were earned)
- must pay accumulated vacation pay within 10 days after the employment ends

Change in Terms and Conditions of Employment

If the employer makes a significant change to fundamental terms and conditions of an employee's employment (e.g., reduces pay, hours of work, demotes the employee) and the employee doesn't agree to the change, the situation might fall under the termination rules in the legislation. For example, if an employer reduces an employee's weekly hours from 40 to 20 without proper notice, and the employee quits within a reasonable period because of the change, the employee might be able to file a Labour Standards complaint for pay in lieu of notice.

Note, if an employer breaches an employee's terms and conditions of employment, the Code allows the employee to quit without notice, even if the breach is not significant. See also section on *When the Employee Ends the Employment*.

The Right to End Employment Without Notice

The *Labour Standards Code* says that there are times when an employer does not have to give notice or pay in lieu of notice that the employee will be fired or laid off. Some examples are listed below:

- when an employee works for the employer for less than three months
- when an employee works for the employer for a set term or task no longer than 12 months and the employee's job ends when the set term or task ends
- when there is a sudden and unexpected lack of work that the employer could not avoid, e.g., because of an explosion in the workplace
- when the employer offers the employee other reasonable employment
- when an employee has reached the age of retirement based on a bona fide occupational requirement (for most jobs, mandatory retirement is not allowed)
- when a person is laid off or suspended for 6 days or less - note employees with 10 or more years of service cannot be suspended without just cause

An employer can also end employment without notice or pay in lieu of notice when an employee has been guilty of wilful misconduct or disobedience or neglect of duty that has not been condoned by the employer. To end an employee's job without notice, the employer must

usually show that the employee has been given progressive discipline but their behaviour/performance has not improved.

Condonation

Condonation means that the employer has not corrected a behaviour in the past. Condonation is an issue if, for example, an employer ignores an employee's poor performance at work and then one day fires the employee for the same poor behaviour. If an employer condones an employee's behaviour and then fires him/her without notice, the employer may be in violation of the *Labour Standards Code*. An employee must be told that the employer will no longer allow the poor performance. The employee must understand what will happen if their performance does not improve.

Progressive Discipline

Depending on the problem an employer is having with an employee, it may be better to correct the problem by using progressive discipline rather than by ending the employee's job.

Progressive discipline can begin with spoken warnings, move to written warnings and suspensions, and then end with firing the employee. For example, an employee who is a good worker but does not follow work procedures properly may just need spoken and written warnings to correct the problem. The discipline should match the seriousness of the problem.

There are times when the steps above would not need to be followed because of the seriousness of the employee's behaviour. For example, if the employer can prove that the employee has stolen from the employer, then the employer may be able to fire the employee without warning or notice.

Employees with 10 Years of Service

The *Labour Standards Code* says that an employee with 10 years or more of service cannot be fired or suspended without good reason or just cause. What is good reason will depend on the employee's and employer's circumstances.

To show that the employer had good reason, the employer may have to show all the following:

1. the employer has made their expectations clear to the employee
2. the employer has warned the employee to change behaviour
3. the employer has given the employee a reasonable chance to change behaviour
4. the employer has warned the employee that not improving behaviour could lead to being fired

There may be limited circumstances, like a theft, in which an employer may fire an employee with 10 years of service and not have to follow the four steps.

When Labour Standards finds that an employee with 10 years or more of service has been fired without good reason, the employer may be ordered to bring the employee back to the job with

full back pay dating to the date the employee was fired. If the employee does not wish to go back to the job, Labour Standards may order pay in lieu of reasonable notice, which could be more than the 8 weeks' statutory notice required for an employee with 10 or more years of service.

Note: An employee of ten years or more can be laid off with 8 weeks' statutory notice for shortage of work or due to the employer eliminating the employee's position. The law requires that an employer must act in good faith in deciding whether to eliminate a particular position.

Exceptions to the Requirement to have Just Cause or to Give Notice

The *Labour Standards Code* says there are times when an employer can end the employment of an employee with 10 years or more of service without just cause and without notice or pay in lieu of notice. This includes:

- when there is a sudden and unexpected lack of work that the employer could not avoid, e.g., because of an explosion in the workplace
- when the employer offers the employee other reasonable employment
- when an employee has reached the age of retirement based on a bona fide occupational requirement (for most jobs, mandatory retirement is not allowed)

Ending the Employment of 10 or More Employees (Group Notice)

The *Labour Standards Code* says that an employer must give notice to employees and the Minister of Labour, Skills and Immigration when firing or laying off 10 or more employees within any period of 4 weeks or less. The amount of notice groups of employees are entitled to receive depends on the numbers being laid off:

- 8 weeks' notice for a group of 10 to 99 employees
- 12 weeks' notice for a group of 100 to 299 employees
- 16 weeks' notice for a group of 300 or more employees

Notice to the Minister

When an employer is required to give group notice under the *Labour Standards Code*, the employer must also notify the Minister of Labour, Skills and Immigration, in writing, of the situation. Written notice to the Minister should include the following information:

- the name and address of the company laying off employees
- the reason employees are being laid off
- the number of employees being laid off
- if more than one location of the business is affected, the number of employees being laid off at each location and the address of each location
- the date written notice is being given to employees
- the date employees' employment is ending
- the number of weeks' notice and/or pay in lieu of notice being given to employees

- contact information for an individual who the Department of Labour, Skills and Immigration can get in touch with if more information about the lay off is needed

When a Business Is Transferred or Sold

It is important to know that the *Labour Standards Code* says that an employee's employment is not broken if a business is transferred or sold in any manner. If an employee worked for both the seller and purchaser of a business, when the employee's employment comes to end, the employee may be entitled to notice that the job is ending or pay in lieu of notice based on how long the employee worked with both the past owner and the person who bought the business.

Employees Not Covered by the Rules

The rules about the employer ending the employment do not apply to the following employees:

- employees employed in the construction industry (doing onsite work). For example, this rule would not apply to an employee operating an excavator at the worksite but would apply to an administrative assistant working in the office
- real estate and car salespeople
- commissioned salespeople who work outside the employer's place of business, but not those on an established route
- employees who work on a fishing boat
- practitioners or students in training for architecture, dentistry, law, medicine, chiropody, professional engineering, public or chartered accounting, psychology, surveying, veterinary science, optometry, or pharmacy (for the purposes of reinstatement claims for 10-year employees only)
- athletes while engaged in activities related to their athletic endeavour
- employees who work under a collective agreement
- other workers: see page 4-5

When the Employee Ends the Employment

Employees normally must give their employers written notice that they are quitting their jobs. “Notice” in this case is the amount of time between when the employee tells the employer in writing that they are leaving their job and the time the employee actually leaves.

How much written notice an employee must give depends on how long they have worked for the same employer.

An employee must give:

- one week’s written notice if they have a period of employment three months or more but less than two years
- two weeks’ written notice if they have a period of employment of two years or more

Duty of the Employer When Notice Is Given

When an employee has given the employer proper notice that they are quitting, the employer:

- may not change the employee’s rate of pay or any other condition of employment, such as hours of work or benefits
- must pay the employee all the wages they are entitled to receive (within 5 working days after the end of the pay period in which the final wages were earned)
- must pay accumulated vacation pay within 10 days after the employment ends

Periods of Employment

An employee’s period of employment (how long they worked) at one workplace may have been broken because the employee was laid off, suspended, or fired.

This is important to know if the employee is about to resign and must decide whether to give their employer one or two weeks’ notice.

The *Labour Standards Code* states that an employee's period of employment is considered unbroken unless it is broken:

- by 12 months or more of layoff or suspension
- by more than 13 weeks that resulted from the employer firing the employee

Also, if an employee quits and is rehired, their period of employment is broken, and they start a new period of employment based on their rehire date.

When an Employee Does Not Need to Give Notice

Just as an employer sometimes does not always need to give an employee notice their employment is ending, there are also times when employees do not need to give notice. These are:

- when the employee has been employed less than three months
- when the employer breaks the terms and conditions of employment (for example, the employer fails to pay the employee wages or reduces the employee's rate of pay or hours of work)

When an Employee Does Not Give Notice

When an employee quits without providing notice required by the Code, the employer may file a complaint with the Labour Standards Division and claim pay owed to the employee. If the employer can show they experienced a financial loss or hardship because the employee quit without proper notice, Labour Standards might find the employer is entitled to keep all, or a portion of, pay owed to the employee. As an example, an employer may be able to claim an employee's final pay to compensate the employer for the cost of paying other workers overtime pay to finish work the employee would have completed if the employee had not quit without notice.

In situations where the Code does not require an employee to give notice, such as when an employer breaches an employee's terms and conditions of employment, there is no basis under the Code for an employer to pursue compensation for any financial cost or hardship experienced by the employer because of an employee's abrupt quit.

Employees Not Covered by the Rules

The rules about employees giving notice of quitting their jobs do not apply for the following employees:

- employees employed in the construction industry (doing onsite work). For example, this rule would not apply to an employee operating an excavator at the worksite but would apply to an administrative assistant working in the office
- real estate and automobile salespersons
- commissioned salespersons who work outside the employer's place of business, except those on established routes
- employees who work on a fishing boat
- athletes while engaged in activities related to their athletic endeavour
- employees who work under a collective agreement
- other workers: see page 4-5

Leaves from Work

This section is about the leaves of absence that the *Labour Standards Code* says employers must allow employees to take. The leaves of absence are pregnancy and parental, end of pregnancy, reservist, compassionate care, critically ill child care, critically ill adult care, domestic violence, crime-related death or disappearance of a child, emergency, sick, bereavement, court, and citizenship ceremony.

During a leave of absence, an employee leaves the job intending to return. The intent is to provide job protection so employees can take time off from their job for the leave. Employees can qualify for multiple leaves under the *Labour Standards Code*.

Most of the leaves are unpaid leaves of absence, meaning that the employer does not have to pay the employee during these absences. Employment Insurance benefits may be available for some of these leaves. In the case of domestic violence leave, employees are entitled to receive pay for part of the leave.

For all protected leaves under the *Labour Standards Code*, the employer must:

- allow the employee to keep up, at the employee's own expense, any benefit plans to which the employee belongs - note the employer must give 10 days' written notice before the option to keep up employee benefits is no longer in effect, and
- accept the employee back to the same position held by the employee immediately before the leave began, or, where that position is not available, in a comparable position with no loss of seniority or benefits when the employee returns from the leave

In addition, employers are required to keep confidential any information they receive in relation to a protected leave of absence an employee takes. Employers must not share the information except in situations where:

- the employee has consented to the information being shared
- an agent or employee of the employer, such as a manager, needs the information to do their job, or
- the law requires that the information be disclosed

Pregnancy Leave, Leave for End of Pregnancy, and Parental Leave

Employees do not need a certain length of service to qualify for pregnancy leave, leave for end of pregnancy or parental leave − an eligible employee could take either of these leaves shortly after starting their employment.

Pregnancy Leave

Pregnancy leave is an unpaid leave for pregnant employees. It can last up to 16 weeks. An employer can require that an employee take an unpaid leave of absence if the pregnancy interferes with the employee's work. There are times when the *Human Rights Act* or the employee's contract prevents this.

Parental Leave

The *Labour Standards Code* also allows parents to take parental leave to care for their newborn or newly adopted children. This unpaid leave is up to 77 weeks. For employees who also take pregnancy leave, they can take a total of 77 weeks combined pregnancy (16 weeks) and parental (61 weeks) leave.

To Take Pregnancy or Parental Leave

To take pregnancy or parental leave, an employee must give the employer at least four weeks' notice of both the date on which leave will start and, if the employee plans to return early, the planned date of return to work. If the employee cannot give four weeks' notice of leave because the employee has been employed for fewer than four weeks, the baby is born early, because of a medical condition, or because of an unexpected adoption placement, then the employee must give as much notice as possible. Pregnancy leave can begin not sooner than 16 weeks before the expected date of delivery, and not later than the date of delivery.

An employer can ask for proof of entitlement for pregnancy or parental leave. This can include a certificate from a doctor or adoption worker.

If an employee is taking both pregnancy and parental leaves, the employee must take them one right after the other and not go back to work between the two leaves.

If an employee is taking parental leave but not pregnancy leave, the employee can take up to 77 weeks' leave in the time after the child is born or arrives in the home. The employee loses this right if the leave is not taken within 18 months after the child arrives in the home.

If a newly arrived child must go into hospital for more than one week, the employee can return to work and use the rest of the parental leave after the child comes out of hospital.

Employees who take pregnancy and/or parental leave may qualify for maternity benefits and/or parental leave benefits under the federal government's Employment Insurance program. For more detail on these benefits, contact Service Canada.

Leave for End of Pregnancy

Leave for end of pregnancy is an unpaid leave of absence for employees who have experienced an end of pregnancy. End of pregnancy means a pregnancy that does not end in a live birth. This is a new leave (under the *Labour Standards Code*) that comes into effect on January 1, 2023.

The reason a pregnancy ended does not matter for an employee to be eligible for this leave, and employers are not entitled to know why a pregnancy ended.

Leave for End of Pregnancy – Employee Whose Pregnancy Ends

If an employee's pregnancy ends before they have completed their 19th week of pregnancy, the employee is entitled to an unpaid leave of absence of up to 5 consecutive working days.

If an employee's pregnancy ends after they have completed their 19th week of pregnancy, they are entitled to an unpaid leave of absence of up to 16 consecutive weeks.

If an employee's pregnancy ends while they are on pregnancy leave, and they have taken more than 10 weeks of pregnancy leave when their pregnancy ends, they are entitled to up to 6 additional weeks of unpaid leave from the day their pregnancy ended.

An employee whose pregnancy ends after their 19th week of pregnancy and who initially chooses to take the 5-day leave can then decide to take the longer leave entitlement (minus whatever portion of the 5 days they already took). The leave periods must be taken consecutively – the employee cannot return to work between the leave periods. As well, the total leave time for end of pregnancy cannot be more than 16 weeks, and it cannot be more than 6 weeks if the employee was on pregnancy leave for more than 10 weeks when their pregnancy ended.

Leave for End of Pregnancy – Spouse, Former Spouse, Surrogacy, Adoption

The following people are entitled to up to 5 consecutive working days of unpaid leave:

- The spouse of an individual whose pregnancy ended without a live birth
- The former spouse of an individual whose pregnancy ended without a live birth, if they would have been the biological parent
- A person who would have become the parent of a child born as a result of the pregnancy through a surrogacy agreement
- A person who would have become the parent of a child born as a result of the pregnancy under an intended adoption pursuant to the laws of Nova Scotia

To Take Leave for End of Pregnancy

An employee must provide their employer with as much notice as possible of their intention to take the leave, and the anticipated start and end date of the leave. If the employee begins the leave before they can provide their employer with notice, the employee must advise their employer as soon as reasonably possible of the date the leave began and the end date of the leave.

The employer may ask the employee to provide a form developed by the Labour Standards Division to support the employee's entitlement to leave for end of pregnancy. It is an employer's choice whether to require the employee to provide this form to the employer. An employee can obtain the form online as follows:

- Leave for End of Pregnancy (Employee whose pregnancy has ended)
- Leave for End of Pregnancy (Spouse, Former Spouse, Surrogacy, Adoption)

Employees can also obtain the form by contacting the Labour Standards Division at 902-424-4311, 1-888-315-0110 (toll free in Nova Scotia) or labourstandards@novascotia.ca.

Some examples of how leave applies when an employee's pregnancy ends

- An employee's pregnancy ends without a live birth in their 10th week of pregnancy. The employee is entitled to five consecutive working days of unpaid leave for the end of their pregnancy

- An employee's pregnancy ends without a live birth in their 20th week of pregnancy. The employee informs their employer that they are taking 5 days of leave for end of pregnancy and begins the leave. Three working days after starting the leave, the employee realizes they need additional time and immediately provides notice to their employer that they will be taking the 16-week leave. The employee is entitled to 16 weeks, minus the three days of leave the employee has already taken

- An employee was on pregnancy leave for 6 weeks when their pregnancy ended without a live birth. The employee can take the remainder of their 16-week pregnancy leave entitlement under the *Labour Standards Code*, which is 10 weeks

- An employee was on pregnancy leave under the *Labour Standards Code* for 14 weeks when their pregnancy ended without a live birth. The employee qualifies for up to 6 additional weeks of leave from the day their pregnancy ended, which totals 20 weeks of leave

Reservist Leave

The *Labour Standards Code* includes a leave for employees who serve in the Canadian Forces reserve force and require time off from their civilian employment for the purpose of service. The leave can be taken for a deployment—inside or outside of Canada—and associated activities; training required by the Canadian Forces, including military skills training; travel related to deployment and training; and treatment, recovery or rehabilitation with respect to a physical or mental health problem resulting from deployment or training activities. To qualify for this leave, the employee must be employed with their civilian employer for a period of at least three months.

Eligible employees can take up to 24 months of reservist leave within any 60-month period. They can take more leave than this if the leave is required as a result of a national emergency under the Emergencies Act (Canada).

Employees who take reservist leave must return to work no later than four weeks after a deployment related period of service ends. Employees who take reservist leave for training that is unrelated to deployment must return to work no later than the next regularly scheduled working day after the training related period of service ends.

To Take Reservist Leave

An employee must give their employer four weeks' written notice of their intention to take reservist leave, the anticipated start and end date of the leave and the anticipated date of return to work. If an employee receives less than four weeks' notice from the Canadian Forces of a requirement to participate in a period of service, they must provide their civilian employer with as much notice as reasonable in the circumstances—the notice does not need to be given in writing if it is not practicable to do so. If there are any changes to the anticipated start and end dates for the leave and the anticipated return to work date, the employee must inform the employer of these changes as soon as reasonably practicable and must do so in writing if possible.

An employer can require an employee to provide a certificate from an official with the Reserves confirming the employee is a member of the Reserves who is required for service and specifying the dates for the period of service.

Compassionate Care Leave

Compassionate care leave is an unpaid leave that allows an employee to take time off work to provide care and support to a seriously ill family member (or a person like family).

To qualify for this leave, the employee must have worked with their employer for at least three months. A qualified medical practitioner must issue a medical certificate stating that the employee's family member has a serious medical condition with a significant risk of death within twenty-six weeks. Employees who need to take compassionate care leave must give their employer as much notice as possible before taking the leave. An employer can ask in writing for a copy of the medical certificate.

Employees who qualify for compassionate care leave can take up to 28 weeks' leave, which must be taken within a 52-week time frame. The leave can be broken up into several periods of at least one week in duration during the 52-week time frame. The 52-week time frame begins on the first day of the week in which the certificate is issued, or, where the leave began before the certificate was issued, the first day of the week in which the leave began.
Employees who take a compassionate care leave may qualify for a compassionate care leave benefit under the federal government's Employment Insurance program. For more detail on this benefit, contact Service Canada.

Critically Ill Child Care Leave

Critically ill child care leave is an unpaid leave that allows an employee to take time off work to provide care and support to a critically ill or injured child (under the age of 18 years old) who is a family member (or a person like family). To qualify for this leave, the employee must be employed with their employer for a period of at least three months. A qualified medical practitioner must issue a medical certificate stating that the child has a critical illness and the period for which the child needs care.

The employee can take up to 37 weeks' leave, which must be taken within a 52-week time frame. The leave can be broken up into several periods of at least one week in duration during this time frame. The 52-week time frame begins on the first day of the week in which the child became critically ill.

In some circumstances, an employee may need further leave, which may be taken if an additional certificate is issued—the total combined leaves must not be more than 37 weeks in the 52-week time frame.

The leave ends when the number of weeks stated in the medical certificate has been taken.
If the employee stops providing care to the child, the leave ends at the end of the week in which the employee stops providing care. An employee can choose to return to work earlier by giving at least 14 days' notice.

Employees who take a critically ill child care leave may qualify for a benefit under the federal government's Employment Insurance program. For more detail on this benefit, contact Service Canada.

To Take Critically Ill Child Care Leave

The employee must let the employer know in writing as soon as possible of their intention to take the leave. Where the leave must begin before written notice can be given, the employee must advise the employer of the leave as soon as possible. The employee must also give the employer a plan setting out how the leave will be taken, since the leave can be broken up into more than one period over the 52-week time frame. This leave plan can be changed during the leave with the employer's agreement or by providing the employer with reasonable notice.

The employer can ask in writing for a copy of the medical certificate.

Critically Ill Adult Care Leave

Critically ill adult care leave is an unpaid leave that allows an employee to take time off work to provide care and support to a critically ill or injured adult (18 years old or older) who is a family member (or a person like family). To qualify for this leave, the employee must be employed with their employer for a period of at least three months. A qualified medical practitioner must issue a medical certificate stating that the adult has a critical illness and the period for which the adult needs care.

The employee can take up to 16 weeks' leave, which must be taken within a 52-week time frame. The leave can be broken up into several periods of at least one week in duration during this time frame. The 52-week time frame begins on the first day of the week in which the adult became critically ill.

In some circumstances, an employee may need further leave, which may be taken if an additional certificate is issued—the total combined leaves must not be more than 16 weeks in the 52-week time frame.

The leave ends when the number of weeks stated in the medical certificate has been taken. If the employee stops providing care to the adult, the leave ends at the end of the week in which the employee stops providing care. An employee can choose to return to work earlier by giving at least 14 days' notice.

Employees who take a critically ill adult leave may qualify for a benefit under the federal government's Employment Insurance program. For more detail on this benefit, contact Service Canada.

To Take Critically Ill Adult Leave

The employee must let the employer know in writing as soon as possible of their intention to take the leave. Where the leave must begin before written notice can be given, the employee must advise the employer of the leave as soon as possible. The employee must also give the

employer a plan setting out how the leave will be taken, since the leave can be broken up into more than one period over the 52-week time frame. This leave plan can be changed during the leave with the employer's agreement or by providing the employer with reasonable notice.

The employer can ask in writing for a copy of the medical certificate.

Domestic Violence Leave

Domestic violence leave can be taken by an employee who is experiencing domestic violence or whose child (under 18) is experiencing domestic violence. The employee may take up to ten intermittent or consecutive days per calendar year. The employee may also take up to 16 consecutive (continuous) weeks per calendar year. Up to five days of the leave must be paid by the employer. To qualify for this leave, the employee must be employed with their employer for a period of at least three months.

Under the *Labour Standards Code*, domestic violence is defined broadly. It is an act of abuse that can be physical, sexual, emotional, or psychological. It can include coercion, stalking, harassment, or financial control. Or it can be a threat of such abuse.

The leave applies to situations of abuse involving the following relationships:

An employee who is abused by:

- their current or former intimate partner
- their child
- a person under 18 years who lives with them, or
- an adult who lives with them and is related to them by blood, marriage, adoption, or foster care

An employee whose child is abused by:

- the child's current or former intimate partner, or
- a person who lives with the child

Domestic violence leave can be used by an employee to seek medical attention for themselves or their child; obtain services for themselves or their child from a victim services organization, psychological or other professional counselling (or certain culturally-specific services); relocate temporarily or permanently; or seek legal or law enforcement assistance.

To take Domestic Violence Leave

An employee must advise their employer in writing as soon as possible of their intention to take domestic violence leave, and the anticipated start and end date of the leave. The employer may ask the employee to provide a form developed by the Labour Standards Division to support the employee's entitlement to domestic violence leave. It is an employer's choice whether to require the employee to provide this form to the employer. An employee can obtain the form online here: Domestic-Violence-Leave-Notification-Form.pdf (novascotia.ca).

Employees can also obtain the form by contacting the Labour Standards Division at 902-424-4311, 1-888-315-0110 (toll free in Nova Scotia) or labourstandards@novascotia.ca.

The longer part of domestic violence leave is up to 16 consecutive weeks. To end the longer leave early, the employee must give the employer written notice of at least 14 days before the employee wishes to end the leave, or as much notice as possible.

The shorter part of the leave is ten days, which can be taken at different times or all at once. An employee may end this leave early by giving as much notice as is reasonably possible.

Up to five days of domestic violence leave, per calendar year, must be paid by the employer. For the five paid days, each day must be paid at the employee's regular wage for all hours the employee would have worked that day if the leave had not been taken. The employee can choose which of the days are the five paid days by notifying the employer in writing of this. Otherwise, the employer must treat the first five days taken of the leave as paid days.

Any part of a day taken for domestic violence leave counts as a full day of leave. If an employee works a portion of a day, they must be paid for the time they worked on that day. Also, paid leave for any portion of a workday counts as one of the five paid days that an employee is entitled to under the *Labour Standards Code*. For example, if an employee takes domestic violence leave for three hours of a seven-hour shift, and works the remainder of the shift, that will count as one of their ten days of leave. Further, if the employee receives pay for the three hours of leave on that day, it will count as one of the five days of paid leave.

The law also requires that employees attempt to schedule appointments during non-working hours, if possible.

More information about domestic violence leave can be found in the brochure.

Domestic Violence Leave Brochure (PDF)

Domestic Violence Leave Brochure: French (PDF)

Crime-related Child Death or Disappearance Leave

Crime-related death or disappearance leave is an unpaid leave for parents and guardians who are facing the death or disappearance of their child (under 18 years of age) resulting from a probable crime. To qualify for this leave, the employee must be employed with their employer for a period of at least three months. The employee is not entitled to the leave if charged with the crime.

An employee can take up to 52 consecutive weeks of unpaid leave if their child has disappeared and up to 104 consecutive weeks if their child has died.

Where a missing child is found alive during the 52-week leave period, the employee can continue the leave for another 14 days. If the child is found dead, the disappearance leave ends immediately, and the employee can start 104 weeks of leave related to the death of the child.

Where the death or disappearance no longer seems to be the result of a crime, the employee can continue the leave for another 14 days and the employee must give the employer notice in writing of their return to work as soon as possible.

The employee can end the leave early by giving the employer 14 days' written notice.

Employees who take a crime-related death or disappearance leave may qualify for income support through a federal government grant. For more information on this grant, contact Service Canada.

To Take Crime-related Child Death or Disappearance Leave

The employee must let the employer know in writing as soon as possible of their intention to take the leave. Where the leave must begin before written notice can be given, the employee must advise the employer of the leave as soon as possible.

The employee must also give the employer a written plan outlining the period that they will take the leave, which can be changed during the leave period with the employer's agreement or by giving the employer 4 weeks' written notice.

The employer can ask for reasonable evidence of the death or disappearance of the child and evidence showing it was likely due to a crime.

Emergency Leave

Employees are entitled to an unpaid leave if they are unable to perform their work because of:

- an emergency declared under the Emergency Management Act, or
- a direction or order of a medical officer—or a public health emergency declared—under the Health Protection Act, or
- an emergency declared under the Emergencies Act (Canada)

Employees are also eligible for the leave if they cannot perform their work because they need to care for a family member who is affected by one of the emergency situations noted above and the employee is the only person who can reasonably care for the family member in the circumstances.

Employees are eligible for the leave for as long as the emergency prevents them from being able to perform their work. For example, if an employee can perform their work remotely, the leave does not apply.

Sick Leave and Family Responsibility Leave

Employees are entitled to an unpaid leave of absence of up to five days per year due to the employee's own illness or injury.

Employees are entitled to receive up to three days of unpaid leave each year to care for an ill parent, child, or family member. These three days can also be used for medical, dental, or other similar appointments for the employee or the employee family member.

Medical Certificates for Employee Absence due to Sickness or Injury

The *Patient Access to Care Act* includes measures to reduce administrative burdens on healthcare providers, giving them more time to see patients. Schedule B of the Act, the *Medical Certificates for Employee Absence Act* is administered by the Labour Standards Division. This Act limits the circumstances in which employers can require employees to provide medical notes and broadens the scope of healthcare professionals who can provide them.

The following is intended to provide general information on the *Medical Certificates for Employee Absence Act*. For questions about this Act, contact the Labour Standards Division.

Key Features of *Medical Certificates for Employee Absence Act* (the Act):

- Employers cannot require employees to provide a medical note unless:
    - the employee has missed more than five consecutive working days due to sickness or injury or
    - the employee has already had at least two non-consecutive absences of five or fewer days due to sickness or injury in the preceding 12-month period

  For example, if an employee missed six consecutive days of work (first absence), then two consecutive days (second absence) followed by four consecutive days (third absence) in a 12-month period, the employer could ask for a medical note for only the first absence. The employer could not ask for a medical note for the second or third absences because they are not more than five consecutive days, and the employee has not had more than two non-consecutive absences of five days or less in the preceding 12-month period.
- Employers must accept medical certificates from various qualified health professionals, not just physicians.
- An employee can file a complaint with Labour Standards if they believe their employer has contravened the Act.
- Labour Standards is provided with the same powers to enforce the Act as those it has to enforce the *Labour Standards Code*.
- Labour Standards decisions in relation to the *Medical Certificates for Employee Absence Act* can be appealed to the Labour Board.

Serious Illness or Injury Leave

An employee who has been employed by an employer for a period of at least three months and who has been diagnosed with a serious illness or injury is entitled to an unpaid leave of absence of up to twenty-seven weeks from

> (a) the day the employee was diagnosed; or
> (b) where the leave was begun before the employee was diagnosed, the day the leave was begun.

This leave may be broken up into multiple periods, however the periods must be at least one week in length. This leave may not exceed twenty-seven weeks in any fifty-two week period. If this leave is broken up in four or more non-consecutive periods, the employee is not eligible to take a subsequent leave of absence for six months from the last day of the most recent period of leave, unless the employee and the employer agree otherwise.

The employee must let the employer know in writing as soon as possible of their intention to take the leave. Where the leave must begin before written notice can be given, the employee must advise the employer of the leave as soon as possible.

The employer may ask the employee to provide a form developed by the Labour Standards Division to support the employee's entitlement to serious illness or injury leave. It is an employer's choice whether to require the employee to provide this form to the employer. An employee can obtain the form online or by contacting the Labour Standards Division.

Employees who take serious illness or injury leave may qualify for sickness benefits under the federal government's Employment Insurance program. For more information on these benefits, contact Service Canada.

Bereavement Leave

Employees can take unpaid leave of up to five working days in a row if their spouse, parent, guardian, child/child under their care, grandparent, grandchild, sister, brother, mother in-law, father in-law, daughter in-law, son-in-law, sister-in-law, or brother-in-law dies. Employees must give their employers as much notice as possible that they will take this leave.

Court Leave

Employees can take unpaid leave if they must serve on a jury or the court says that they must appear as a witness. They must give their employer as much notice as possible that they will take court leave.

Citizenship Ceremony Leave

Employees are entitled to take an unpaid leave of absence of up to one day, or less if the employee chooses, to attend their citizenship ceremony. If possible, employees must give their employer 14 days' notice that they plan to take the leave. If this is not possible, they must give as much notice as is reasonably possible. If the employer asks, the employee must provide evidence that they are attending their citizenship ceremony on a particular day, for example the "Notice to Appear" sent by Citizenship and Immigration Canada.

Discrimination against an Employee

It is against the law to fire, lay off, or discriminate in any way against an employee who has taken or has said that they intend to take—or if the employer believes the employee may take—a leave of absence that the *Labour Standards Code* says the employee should be able to take. If a complaint is filed Labour Standards will investigate to determine if:

- the employer has good reason to fire or suspend the employee for past behavior and can show that the behaviour has not been allowed in the past
- there is lack of work that the employer could not foresee and avoid
- the business has stopped operating or the employee's job is no longer needed, and the employer is unable to provide other reasonable employment. The employer must show that they acted in good faith

If Labour Standards finds an employee has been discriminated against for having taken a leave or for intending to take a leave, the employer may be ordered to bring the employee back to the job with full back pay dating to the date the employee was fired. If the employee does not wish to go back to the job, Labour Standards may order a reasonable alternative remedy.

Hours of Labour (Period of Rest, Breaks)

Period of Rest

The *Labour Standards Code* states that under normal circumstances employers must grant employees a rest period of at least 24 consecutive hours in every 7 days.

Emergency Situations

An employer can require more than six days of work in a row if, for example, there has been an accident or if urgent work must be done to machinery or a plant. In these emergency circumstances, the employer can require only as much work as is needed to avoid serious interference with the ordinary operation of the workplace. It is important to note that the employer still must follow break and overtime rules.

Requesting an Exemption to the Rules

In limited circumstances, employers may apply to the Director of Labour Standards for a temporary exemption from the period of rest rule. This is called a variance. For example, a call centre may take on a new contract and need to provide employees with training in relation to the contract within a short period of time. The employer could apply for a variance to temporarily have employees work more than 6 days without a rest during the training period.

In determining whether to grant an exemption, Labour Standards considers several factors, such as:

- if the employer's request for an exemption is due to a special project or undertaking
- if the exemption is temporary in nature
- if the employer is proposing an alternative period of rest arrangement in which the number of rest days employees are entitled to following a work period are equal to at least 1 day off each 7-day period
- if the majority of employees support the alternative period of rest arrangement requested by the employer
- if the workplace is unionized, whether the union supports the employer's request
- health and safety considerations

It is important to note that even if a variance is granted, the employer still must follow break and overtime rules.

Employees Not Covered by the Rules

The day of rest rules do not apply to the following employees:

- most farm employees
- commissioned salespeople who work outside the employer's place of business
- employees who work on a fishing boat

- practitioners or students in training for architecture, dentistry, law, medicine, chiropody, professional engineering, public or chartered accounting, psychology, surveying, or veterinary science
- employees employed in offshore oil and gas work while under the jurisdiction of the Canada – Nova Scotia offshore Petroleum Board
- athletes while engaged in activities related to their athletic endeavour
- other workers: see page 4-5

Rest or Eating Breaks

Employees are entitled to an unbroken half hour break, so the employee is never working more than 5 consecutive hours without a break. For example, if an employee works a shift of 12 consecutive hours, the employee should receive a full half hour break plus an additional 30 minutes in breaks that can be taken as a whole or split into two or more periods totalling 30 minutes.

Employers are generally not required to pay employees for breaks. However, if an employee is required to remain at the job site under the control of the employer and be available to work if necessary, during the break, then this will likely be considered work. If so, the employee must be paid for this time.

Where it is necessary for medical reasons, under the *Labour Standards Code* an employee is entitled to take rest or eating breaks at times other than those summarized above; also, an employee may have a right to additional breaks as an accommodation under the Human Rights Act.

Exceptions to the Requirement to Provide Breaks

An employer does not need to give a break if it is impractical because of an accident, urgent work is necessary or because of other unforeseeable or unpreventable circumstances, or because it is unreasonable for an employee to take a meal break. In these situations, an employee must be able to eat at work unless this is unsafe or unreasonable.

Employees Not Covered by the Rules

The rest or eating breaks rules do not apply to the following employees:

- athletes while engaged in activities related to their athletic endeavour
- employees who work under a collective agreement
- other workers: see page 4-5

Employment of Children

The *Labour Standards Code* has rules about when children may be employed in Nova Scotia. The laws about the employment of children do not apply to people who are 16 years and over.

The law generally divides children into two groups: those under 14 and those under 16.

Children Under 14

It is against the law to pay wages to a child under the age of 14 to do work that:

- is likely to be unwholesome or harmful to the child's health or normal development
- is likely to keep the child out of school or make it hard for the child to learn at school

It is against the law to employ a child under 14 to do work:

- for more than 8 hours a day
- for more than 3 hours on a school day unless a certificate has been issued under the Education Act to allow the child to work
- for any time during the day when that time plus the time the child is in school adds up to more than 8 hours
- between the hours of 10 pm of any day and 6 am of the next day

Children Under 16

The *Labour Standards Code* says that no one is to employ a child under the age of 16 in certain types of work, such as:

- mining
- manufacturing
- construction
- forestry
- work in garages and automobile service stations
- work in hotels
- work in billiard rooms, pool rooms, bowling-alleys, or theatres

Children Working in Restaurants

Employers may employ children aged 14 and 15 to work in restaurants provided they make sure these employees:

- are not operating cooking equipment
- are provided with safety training on all equipment and
- are provided with adequate supervision

Exception

The rules regarding children under 16 years of age not being allowed to work in the types of businesses identified previously do not apply to a situation where an employer employs a member of their own family. However, an employer who employs a family member under the age of 14 must still comply with the rules outlined previously for children under 14.

Liability of a Parent or Guardian

Any parent or guardian of a child whose employment violates the *Labour Standards Code* can be fined unless the parent/guardian can prove that the child worked without their knowledge.

Making a Complaint

Complaints about employers hiring under aged children are treated as priority complaints by Labour Standards. If you have concerns about the employment of under aged children, contact Labour Standards immediately.

Foreign Worker Recruitment and Employment

The *Labour Standards Code* provides employment protections for most employees in Nova Scotia. Some of the protections are specific to foreign workers who are especially vulnerable to unscrupulous recruitment and hiring practices. Below is information on Labour Standards rules in place to protect foreign workers. These rules apply to workers who are recruited for employment in Nova Scotia and are not Canadian citizens or permanent residents of Canada.

The Foreign Worker Rules

Changes to Terms and Conditions of Employment

Employers cannot eliminate or reduce a foreign worker's wages, benefits or other terms or conditions of employment (e.g., hours). Also, a foreign worker cannot agree to an elimination or reduction in wages. There are limited exceptions to this rule.

Withholding of Property

Employers and recruiters cannot take or keep a foreign worker's property (e.g., passport, work permit).

Recovery of Recruitment Costs

Recruiters cannot charge workers a fee for recruitment-related services. Employers cannot make deductions, directly or indirectly, from workers' pay to cover the costs of recruiting. These rules apply to all workers, not only foreign workers.

Recruiter Licensing

Most individuals who wish to provide foreign worker recruitment-related services in Nova Scotia must be licensed with Labour Standards.

With limited exceptions, if an employer wants to use a third-party recruiter to hire foreign workers, the employer must use a recruiter who is licensed. A list of licensed recruiters is available on the Labour Standards website.

Employer Registration

Most employers who wish to recruit and hire foreign workers for employment in Nova Scotia must obtain a Foreign Worker Employer Registration Certificate from Labour Standards.

Records

Employers must keep employment records of all employees, including foreign workers. Employers must also keep records related to the recruitment of employees. These records must be kept for at least 36 months after the work has been performed. Recruiters must keep records

related to the recruitment of foreign workers for at least three years after performing recruitment services (see also section on *Records*).

Workers Not Covered by the Foreign Worker Rules

There are three categories of foreign workers who are exempt from the foreign worker rules:

1. International Students - Students whose main reason for being in Nova Scotia is to study.
2. Specialized Service Providers - Individuals brought into the province for short periods of time to provide specialized services. For example, an individual employed by a company in Germany who is sent to Nova Scotia for three days to service equipment their employer sold to a company in Nova Scotia.
3. Independent Contractors - Individuals who are recruited from other countries to perform work in Nova Scotia as independent contractors (i.e., self-employed workers).

Note, international students are covered by the rest of the *Labour Standards Code*.

Exceptions to the Requirement to be Licensed

The following types of recruiters do not need to be licensed to provide foreign worker recruitment-related services:

- those who recruit foreign workers for jobs with provincial government reporting entities, for example provincial government departments, Nova Scotia Health Authority (hospitals), Nova Scotia Community College and school boards; municipalities; and universities
- those who recruit foreign workers for jobs that fall under National Occupational Classification (NOC) Codes “0”, for example senior management jobs, and “A”, for example physicians, university professors and creative performing artists (e.g., actors)

Important note: If you are recruiting foreign workers for one of the organizations or types of jobs listed above and are also recruiting foreign workers for organizations or jobs that do not fall within the exemptions, you must be licensed.

Employers do not need to be licensed to recruit foreign workers to work for the employer’s own business.

Exceptions to the Requirement to be Registered

The following types of employers do not need a Foreign Worker Employer Registration Certificate to recruit and hire foreign workers:

- provincial government reporting entities, for example provincial government departments, Nova Scotia Health Authority (hospitals), Nova Scotia Community College and school boards; municipalities and universities

- employers who seek foreign workers for jobs that fall under National Occupational Classification (NOC) Codes “0”, for example senior management jobs, and “A”, for example physicians, university professors and creative performing artists (e.g., actors)

Important note:

If you are an employer using a third-party recruiter to find foreign workers and you fall under these registration exemptions, you are also exempt from the requirement to use a licensed recruiter.

Concerns about Foreign Worker Recruitment

If you have concerns about an individual without a foreign worker recruiter licence helping foreign workers find employment in Nova Scotia or helping employers in Nova Scotia find foreign workers, you can contact the Labour Standards Division.

You can also contact Labour Standards if you have concerns in relation to a foreign worker being charged fees by someone to help the foreign worker find employment in Nova Scotia, a foreign worker being required to reimburse their employer for recruitment costs, or other possible violations of the *Labour Standards Code.*

Records

Employers and recruiters are required to keep and maintain records relating to the employment and recruitment of employees and individuals.

Employers

Employers must keep employment records to show that employees receive at least the benefits they are entitled to under the *Labour Standards Code*. These records must be kept at the employer's main place of business and must be kept for at least 36 months after the work has been performed. As well, employers must be prepared to show that all outstanding pay has been paid.

Employers must keep the following information:

- a list of the names of all employees, showing the employees' age, and last known address
- a record of the rates of wages, hours of work, vacation periods, leaves of absence, pay, and vacation pay each employee received
- a record of the date each employee began work and, if the employee no longer works for that employer, the last day the employee was employed
- a record of when employees were laid off or fired and the dates when those employees received notice of the end of their jobs
- a record of how much each employee has been paid

Employers who use a recruiter to recruit employees for employment must also keep the following information for 36 months after the work has been performed:

- the name and address of any person the employer paid a recruitment fee to and the date and amount of the payment

Pay Statements

Employers must give employees pay statements when paying their wages. The pay statement must include:

- the pay period for which the employee is being paid for
- the number of hours for which the employee is being paid for
- the wage rate (for example, $17 per hour, 1800 bi-weekly, $100 per day)
- details of all the deductions made from the employee's pay
- how much the employee is being paid after deductions are made

Employers can provide electronic pay statements if employees are able to access them confidentially and print them.

Recruiters of Foreign Workers

Recruiters of foreign workers must keep and maintain the following records for at least three years after the records are made:

- accurate financial records of the recruiter's operations in Nova Scotia
- a copy of each agreement the recruiter has entered into respecting the recruitment of a foreign worker
- a list of every foreign worker recruited by the recruiter for employment in Nova Scotia

Method of Keeping Records

Employers and recruiters may keep records using any method (from a manual system using a payroll book from a stationery store to a computerized bookkeeping/payroll program). The records must be organized, easy to read, accurate, and up to date.

Inspection of Records

Labour Standards officers can inspect all records of employers and recruiters that in any way relate to the recruitment and employment of individuals, including foreign workers.

They also have the right, at any reasonable time, to enter any work place or office to:

- inspect any place where people might work or where any individual was or is being recruited
- talk to any employee or any individual who was or is being recruited during or outside working hours

Employers and recruiters who fail to keep records, or to keep them up to date, and who fail to give information to the Director of Labour Standards or a Labour Standards officer, may be guilty of a violation under the *Labour Standards Code*.

Labour Standards Complaint Process

Contacting Us

To ask a question or file a complaint, call Labour Standards (1-888-315-0110, toll-free in NS) or view our full contact information on our website.

When Labour Standards receives a complaint, we first decide if we have the authority to address the concerns raised by the complainant. A complaint will not move forward if, for example, the complainant's concerns do not fall under Labour Standards legislation or if the complaint is filed more than 6 months after a possible violation of the legislation occurred. If we have the authority to deal with the complaint, it will be assigned to a Labour Standards Officer for processing.

Processing Complaints

The officer will handle the complaint in a fair, impartial and objective way. The officer's role is to ensure compliance with the minimum standards set out in the legislation. The officer does not represent the parties to the complaint. "Parties" to the complaint include the person or business making the complaint (complainant) and the person or business against whom the complaint is made (respondent).

Settlement of Complaints

The officer will first try to resolve the complaint by asking the parties if they want to settle the matter. If the parties are interested in settling, the officer will facilitate settlement discussions. Settlement allows the parties to decide what they think would be a fair resolution to the complaint. If the parties do not want to settle, or if settlement discussions do not lead to an agreement, the officer will investigate the complaint. In some cases, the complaint may be reassigned to another officer for further investigation.

Investigation

During the investigation, the officer will collect information from the parties. As part of the investigation, the respondent may need to give the officer information such as payroll records, pay stubs, time sheets, records of disciplinary action taken against an employee and workplace policies. The officer may need to interview witnesses who have information about the complaint. At any point in the investigation, a respondent may decide to settle the complaint, or a complainant may decide to withdraw the complaint. A complainant may withdraw the complaint if, for example, the complainant feels the evidence does not support it.

Making a Decision

If the complaint is not resolved during the investigation, the officer will complete the investigation and make a decision based on the best evidence available.

The *Labour Standards Code* says that employers must keep records showing they met the minimum standards of the Code. If the employer does not have good records, they may not be able to show they met the standards and an employee's complaint may be successful. In some cases, employees keep personal records, such as records of hours worked and pay received, and these records can be used to decide if the employer has met the standards.

If an officer decides that money is owed to a complainant, and how much is owed, the parties cannot agree to settle the complaint for less than the amount owed.

When the officer issues a formal decision, called a Director's Decision, the parties can either comply with the decision or, if they disagree with it, in some cases they may be able to appeal it to the Labour Board.

Sharing Information

Information that we collect is shared with the parties. Usually, the information is communicated to the parties verbally by the officer or through a letter or email.

Appealing a Decision to the Labour Board

The Labour Board is not part of the Labour Standards Division. It is a separate and independent body from the Labour Standards Division.

If an employer or recruiter decides to appeal a Labour Standards decision ordering pay, they will need to file an appeal form with the Labour Board, and provide the Board with either 1) the amount ordered by Labour Standards or $2000, whichever is less, or 2) a bond for the full amount ordered. The payment will be held by the Board until the appeal process is completed. Depending on the outcome of the appeal, a portion or all the payment may be paid to the complainant or it may be returned to the employer or recruiter.

For information about the appeal process, contact the Labour Board.

Contact Information

Phone

1-888-315-0110 (toll free in NS)

(902) 424-4311 (HRM)

Email

labourstandards@novascotia.ca

Website

www.novascotia.ca/lae/employmentrights/

Occupational Health and Safety Act

CHAPTER 7 OF THE ACTS OF 1996

as amended by

2000, c. 28, ss. 86, 87; 2004, c. 6, s. 24; 2007, c. 14, s. 7;
2009, c. 24; 2010, c. 37, ss. 117-126; 2010, c. 66; 2011, c. 24;
2013, c. 41; 2016, c. 14; 2024, c. 10, ss. 12, 14-17

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CHAPTER 7 OF THE ACTS OF 1996
amended 2000, c. 28, ss. 86, 87; 2004, c. 6, s. 24; 2007, c. 14, s. 7;
2009, c. 24; 2010, c. 37, ss. 117-126; 2010, c. 66; 2011, c. 24;
2013, c. 41; 2016, c. 14; 2024, c. 10, ss. 12, 14-17

An Act Respecting Occupational Health and Safety

Table of Contents

(The table of contents is not part of the statute)

	Section
Short title	1
Internal Responsibility System	2
Interpretation	3
Application and Administration	
Application of Act	4
Conflict with other enactments	5
Supervision and management of Act	6
Research, programs and activities	7
Continuation of Division	8
Functions of Division	9
Payment from Accident Fund	10
Director and other personnel	11
Designation of inspectors	12
Duties and Precautions	
Employers' precautions and duties	13
Precautions to be taken by contractors	14
Precautions to be taken by constructors	15
Precautions to be taken by suppliers	16
Employees' precautions and duties	17
Self-employed persons' precautions and duties	18
Owners' precautions and duties	19
Precautions to be taken by providers of service	20
Precautions to be taken by architects and engineers	21
Required instruction in principles	22
Nature and extent of duties and requirements	23
Occupational Health and Safety Advisory Council	
Continuation of Council	24
Membership of Council and subcommittees	25
Functions of Council	26
Occupational Health and Safety Policy	
Requirement for policy	27
Occupational Health and Safety Program	
Requirement for program	28
Joint Occupational Health and Safety Committees	
Requirement for committees	29
Committee where subsea coal mine	29A
Composition and procedure of committee	30

Functions of committees ... 31
Deemed establishment of committee ... 32

Health and Safety Representatives

Requirement for and functions of representatives ... 33

Communication of Information

Response to written recommendations ... 34
Duty of employer to provide certain information ... 35
Duty of officer to provide certain information ... 36
Duty of employer to post certain information ... 37
Availability of information at workplace ... 38
Duty of employer to provide certain information ... 39
Service of documents ... 40
Right to annual summary of data ... 41

Workplace Monitoring, Measurements and Tests

Right of employee to observe and be paid ... 42

Right to Refuse Work

Right to refuse work and consequences of refusal ... 43
Restriction on assignment of work where refusal ... 44

Reprisals

Prohibition of "reprisal" ... 45
Right to make complaint or file grievance ... 46

Officers, Inspections and Orders

Powers of officers ... 47
Powers of peace officer under Summary Proceedings Act ... 48
Powers of a peace officer under Criminal Code ... 49
Accompaniment during inspections ... 50
Power to issue stop orders ... 51
Power to require reports, assessments and tests ... 52
Power to require workplace details ... 52A
Prohibition against disclosure of certain information ... 53
Service of notice of decision and right to appeal ... 54
Orders and consequences of orders ... 55
Compliance notices and determination of compliance ... 56
Prohibition against interference with officer ... 57

Chemical Safety

Restriction on use of chemicals ... 58
Duty of employer to prepare list of chemicals ... 59
Duties of suppliers and manufacturers ... 60

Trade Secrets

Extent of right to withhold trade secrets ... 61

Medical Information

Disclosure of medical information ... 62

Accidents

Notice of accident at the workplace ... 63
Disturbance of accident scene ... 64
Duty to disclose accident information ... 65

Code of Practice

Power to require code of practice ... 66

Appeals

Review of order or decision ... 67
Labour Board ... 68
Right to appeal and consequences of appeal ... 69
Appeals may be heard together ... 69A
Jurisdiction of Board and court review ... 70

Enforcement

Registration of decision or order with Supreme Court ... 71
Enforcement of final decision or order ... 72
Power to arrest ... 73
Offences and penalties ... 74
Powers of court on conviction ... 75
Injunction ... 75A
Deemed act or omission of employer ... 76
Participation in offence ... 77
Immunity from civil action ... 78
Limitation period for prosecution ... 79
Analysts ... 80
Proof of orders and other documents ... 81

Regulations

Regulations ... 82
Authorized deviation from regulations ... 83

Transitional Provisions

Enforcement under Act and substituted references ... 85

Effective Dates

Coal Mines Regulation Act repealed ... 86
Metalliferous Mines and Quarries Act repealed ... 87
Former Act repealed ... 88
Effective dates ... 89

Short title

1 This Act may be cited as the *Occupational Health and Safety Act*. 1996, c. 7, s. 1.

Internal Responsibility System

2 The foundation of this Act is the Internal Responsibility System which

(a) is based on the principle that

(i) employers, contractors, constructors, employees and self-employed persons at a workplace, and

(ii) the owner of a workplace, a supplier of goods or provider of an occupational health or safety service to a workplace or an

architect or professional engineer, all of whom can affect the health and safety of persons at the workplace,

share the responsibility for the health and safety of persons at the workplace;

(b) assumes that the primary responsibility for creating and maintaining a safe and healthy workplace should be that of each of these parties, to the extent of each party's authority and ability to do so;

(c) includes a framework for participation, transfer of information and refusal of unsafe work, all of which are necessary for the parties to carry out their responsibilities pursuant to this Act and the regulations; and

(d) is supplemented by the role of the Occupational Health and Safety Division of the Department of Labour, Skills and Immigration which is not to assume responsibility for creating and maintaining safe and healthy workplaces, but to establish and clarify the responsibilities of the parties under the law, to support them in carrying out their responsibilities and to intervene appropriately when those responsibilities are not carried out. 1996, c. 7, s. 2; 2010, c. 66, s. 1; 2011, c. 24, s. 1; O.I.C. 2021-208.

Interpretation

3 In this Act,

(a) "aggrieved person" means an employer, constructor, contractor, employee, self-employed person, owner, supplier, provider of an occupational health or safety service, architect, engineer or union at a workplace who is directly affected by an order or decision;

(b) "analyst" means a person appointed as an analyst by the Minister pursuant to this Act;

(c) "Board" means the Labour Board established under the *Labour Board Act*;

(d) "committee" means a joint occupational health and safety committee established pursuant to this Act;

(e) "compliance notice" means a response, in writing, to an order of an officer, describing the extent to which the person against whom the order was made has complied with each item identified in the order;

(f) "constructor" means a person who contracts for work on a project or who undertakes work on a project himself or herself;

(g) "contractor" means a person who contracts for work to be performed at the premises of the person contracting to have the work performed, but does not include a dependent contractor or a constructor;

(h) "contracts for work" includes contracting to perform work and contracting to have work performed;

(i) "Council" means the Occupational Health and Safety Advisory Council established pursuant to this Act;

(j) "dependent contractor" means a person, whether or not employed under a contract of employment and whether or not furnishing the person's own tools, vehicles, equipment, machinery, material or any other thing, who performs work or services for another on such terms and conditions that the person is

(i) in a position of economic dependence upon the other,

(ii) under an obligation to perform duties mainly for the other, and

(iii) in a relationship with the other more closely resembling that of an employee than an independent contractor;

(k) "Deputy Minister of Labour, Skills and Immigration" includes a person designated by the Deputy Minister of Labour, Skills and Immigration to act in the stead of the Deputy Minister;

(l) "Director" means the Executive Director of Occupational Health and Safety or any person designated by the Executive Director pursuant to this Act to act on behalf of the Executive Director;

(m) "Director of Labour Standards" means the Director of Labour Standards under the *Labour Standards Code*;

(n) "Division" means the Occupational Health and Safety Division of the Department of Labour, Skills and Immigration;

(o) "employee" means a person who is employed to do work and includes a dependent contractor;

(p) "employer" means a person who employs one or more employees or contracts for the services of one or more employees, and includes a constructor, contractor or subcontractor;

(q) "former Act" means Chapter 320 of the Revised Statutes, 1989, the *Occupational Health and Safety Act*;

(r) *repealed 2010, c. 37, s. 117.*

(s) "Minister" means the Minister of Labour, Skills and Immigration;

(t) "occupation" means any employment, business, calling or pursuit;

(u) "officer" means an occupational health and safety officer appointed pursuant to this Act and includes the Director;

(v) "owner" includes a trustee, receiver, mortgagee in possession, tenant, lessee or occupier of lands or premises used as a workplace and a person who acts for, or on behalf of, an owner as an agent or delegate;

(w) "police officer" means

(i) a member of the Royal Canadian Mounted Police, or

(ii) a member or chief officer of a police force appointed pursuant to the *Police Act*;

(x) "policy" means an occupational health and safety policy made pursuant to this Act;

(y) "practicable" means possible, given current knowledge, technology and invention;

(z) "program" means an occupational health and safety program required pursuant to this Act, unless the context otherwise requires;

(aa) "project" means a construction project, and includes

(i) the construction, erection, excavation, renovation, repair, alteration or demolition of any structure, building, tunnel or work and the preparatory work of land clearing or earth moving, and

(ii) work of any nature or kind designated by the Director as a project;

(ab) "reasonably practicable" means practicable unless the person on whom a duty is placed can show that there is a gross disproportion between the benefit of the duty and the cost, in time, trouble and money, of the measures to secure the duty;

(ac) "regularly employed" includes seasonal employment with a predictably recurring period of employment that exceeds four weeks, unless otherwise established by regulation or ordered by an officer;

(aca) "repeatedly" means occurring more than once within the preceding three year period;

(ad) "representative" means a health and safety representative selected pursuant to this Act;

(ae) "self-employed person" means a person who is engaged in an occupation on that person's own behalf and includes a person or persons operating a sole proprietorship but does not include a dependent contractor;

(aea) "serious injury" means an injury that endangers life or causes permanent injury;

(af) "supplier" means a person who manufactures, supplies, sells, leases, distributes or installs any tool, equipment, machine or device or any biological, chemical or physical agent to be used at or near a workplace;

(ag) "union" includes a trade union as defined in the *Trade Union Act* that has the status of bargaining agent under that Act in respect of any bargaining unit at a workplace, and includes an organization representing employees where the organization has exclusive bargaining rights under any other Act in respect of the employees;

(ah) "workplace" means any place where an employee or a self-employed person is or is likely to be engaged in any occupation and includes any vehicle or mobile equipment used or likely to be used by an employee or

a self-employed person in an occupation. 1996, c. 7, s. 3; 2000, c. 28, s. 86; 2010, c. 37, s. 117; 2010, c. 66, s. 2; 2011, c. 24, s. 2; 2016, c. 14, s. 1; O.I.C. 2021-208.

APPLICATION AND ADMINISTRATION

Application of Act

4 **(1)** This Act binds His Majesty in right of the Province.

(2) This Act applies to

(a) every agency of the Government of the Province; and

(b) all matters within the legislative jurisdiction of the Province.

(3) To the extent that His Majesty in right of Canada submits, this Act binds His Majesty in right of Canada, every agency of the Government of Canada and every other person whose workplace health and safety standards are ordinarily within the legislative jurisdiction of the Parliament of Canada. 1996, c. 7, s. 4.

Conflict with other enactments

5 Notwithstanding any general or special Act, where there is a conflict between this Act and the regulations and any other enactment, this Act and the regulations prevail. 1996, c. 7, s. 5.

Supervision and management of Act

6 The Minister has the general supervision and management of this Act and the regulations. 1996, c. 7, s. 6.

Research, programs and activities

7 The Minister may undertake research, programs and activities to promote occupational health and safety and may undertake such programs in co-operation with the Government of Canada or of any other province of Canada or with any person or organization undertaking similar programs. 1996, c. 7, s. 7.

Continuation of Division

8 The Occupational Health and Safety Division of the Department of Labour, Skills and Immigration, established by the former Act, is hereby continued. 1996, c. 7, s. 8; 2010, c. 66, s. 3; 2011, c. 24, s. 3; O.I.C. 2021-208.

Functions of Division

9 The Division shall

(a) be concerned with occupational health and safety and the maintenance of reasonable standards for the protection of the health and safety of employees and self-employed persons;

(b) either alone or in conjunction with the Workers' Compensation Board, the Department of Health and Wellness or other departments and agencies, prepare and maintain statistics and information relating to employees and self-employed persons;

(c) provide assistance to persons concerned with occupational health and safety and provide services to assist joint occupational health and safety committees, health and safety representatives, employers, employees and self-employed persons in maintaining reasonable standards for the protection of the health and safety of employees and self-employed persons;

(d) promote or conduct studies and research projects in the field of occupational health and safety;

(e) encourage and conduct educational programs to promote occupational health and safety;

(f) annually, submit to the Advisory Council a report on a review of this Act; and

(g) perform such other functions as the Minister or the Governor in Council may direct. 1996, c. 7, s. 9; O.I.C. 2011-15.

Payment from Accident Fund

10 All costs of the Division pursuant to this Act and the regulations and costs of education and research related to occupational health and safety shall be paid out of the Accident Fund by the Workers' Compensation Board as determined by the Governor in Council. 1996, c. 7, s. 10; 2024, c. 10, s. 12.

Director and other personnel

11 (1) There shall be appointed in accordance with the *Civil Service Act* ~~an~~ [a] Director of Occupational Health and Safety and such officers and employees as are necessary for the administration and enforcement of this Act and the regulations.

(2) Notwithstanding subsection (1), the Minister may appoint officers, to administer and enforce this Act and the regulations, who are employees of

(a) the Government of Canada or an agency thereof;

(b) the government of another province of Canada or an agency thereof;

(c) another department or an agency of the Government;

(d) a municipality within the meaning of the *Municipal Government Act* or an agency thereof; or

(e) an agency created by any combination of the governments of this Province, other provinces of Canada or the Government of Canada,

and who work in the field of occupational health and safety.

(3) The Director may, in writing, delegate to any person any of the Director's powers, duties or functions pursuant to this Act or the regulations and shall, when so delegating, specify the powers, duties or functions to be exercised by the person to whom the Director delegates.

(4) Notwithstanding anything contained in this Act, an officer appointed pursuant to subsection (2) shall not exercise the powers, duties and functions the officer has pursuant to this Act in relation to the agency, department or municipality, as the case may be, that employs the officer. 1996, c. 7, s. 11; 2000, c. 28, s. 87; 2010, c. 66, s. 4; 2013, c. 41, s. 1.

Designation of inspectors

12 The Minister may designate certain officers as inspectors or chief inspectors for the purpose of this Act or any other Act or part thereof that is administered by the Division. 1996, c. 7, s. 12.

DUTIES AND PRECAUTIONS

Employers' precautions and duties

13 **(1)** Every employer shall take every precaution that is reasonable in the circumstances to

(a) ensure the health and safety of persons at or near the workplace;

(b) provide and maintain equipment, machines, materials or things that are properly equipped with safety devices;

(c) provide such information, instruction, training, supervision and facilities as are necessary to the health or safety of the employees;

(d) ensure that the employees, and particularly the supervisors and foremen, are made familiar with any health or safety hazards that may be met by them at the workplace;

(e) ensure that the employees are made familiar with the proper use of all devices, equipment and clothing required for their protection; and

(f) conduct the employer's undertaking so that employees are not exposed to health or safety hazards as a result of the undertaking.

(2) Every employer shall

(a) consult and co-operate with the joint occupational health and safety committee, where such a committee has been established at the workplace, or the health and safety representative, where one has been selected at the workplace;

(b) co-operate with any person performing a duty imposed or exercising a power conferred by this Act or the regulations;

(c) provide such additional training of committee members or the representative as may be prescribed by the regulations;

(d) comply with this Act and the regulations and ensure that employees at the workplace comply with this Act and the regulations; and

(e) where an occupational health and safety policy or occupational health and safety program is required pursuant to this Act or the regulations, establish the policy or program.

(3) The employer at a subsea coal mine shall provide such additional resources or information for the committee as may be prescribed by the regulations. 1996, c. 7, s. 13; 2007, c. 14, s. 7; 2010, c. 66, s. 5.

Precautions to be taken by contractors

14 Every contractor shall take every precaution that is reasonable in the circumstances to ensure

(a) the health and safety of persons at or near a workplace;

(b) that the activities of the employers and self-employed persons at the workplace are co-ordinated;

(c) communication between the employers and self-employed persons at the workplace of information necessary to the health and safety of persons at the workplace;

(d) that the measures and procedures prescribed pursuant to this Act and the regulations are carried out at the workplace; and

(e) that every employee, self-employed person and employer performing work at the workplace complies with this Act and the regulations. 1996, c. 7, s. 14.

Precautions to be taken by constructors

15 Every constructor shall take every precaution that is reasonable in the circumstances to ensure

(a) the health and safety of persons at or near a project;

(b) that the activities of the employers and self-employed persons at the project are co-ordinated;

(c) communication between the employers and self-employed persons at the project of information necessary to the health and safety of persons at the project, and facilitate communication with any committee or representative required for the project pursuant to this Act or the regulations;

(d) that the measures and procedures prescribed under this Act and the regulations are carried out on the project; and

(e) that every employee, self-employed person and employer performing work in respect of the project complies with this Act and the regulations. 1996, c. 7, s. 15.

Precautions to be taken by suppliers

16 Every supplier shall take every precaution that is reasonable in the circumstances to

(a) ensure that any device, equipment, machine, material or thing supplied by the supplier is in safe condition, and in compliance with this Act and the regulations when it is supplied;

(b) where it is the supplier's responsibility under a leasing agreement to maintain it, maintain any device, equipment, machine, material or thing in safe condition and in compliance with this Act and the regulations; and

(c) ensure that any biological, chemical or physical agent supplied by the supplier is labelled in accordance with the applicable federal and Provincial regulations. 1996, c. 7, s. 16.

Employees' precautions and duties

17 **(1)** Every employee, while at work, shall

(a) take every reasonable precaution in the circumstances to protect the employee's own health and safety and that of other persons at or near the workplace;

(b) co-operate with the employer and with the employee's fellow employees to protect the employee's own health and safety and that of other persons at or near the workplace;

(c) take every reasonable precaution in the circumstances to ensure that protective devices, equipment or clothing required by the employer, this Act or the regulations are used or worn;

(d) consult and co-operate with the joint occupational health and safety committee, where such a committee has been established at the workplace, or the health and safety representative, where one has been selected at the workplace;

(e) co-operate with any person performing a duty or exercising a power conferred by this Act or the regulations; and

(f) comply with this Act and the regulations.

(2) Where an employee believes that any condition, device, equipment, machine, material or thing or any aspect of the workplace is or may be dangerous to the employee's health or safety or that of any other person at the workplace, the employee shall

(a) immediately report it to a supervisor;

(b) where the matter is not remedied to the employee's satisfaction, report it to the committee or the representative, if any; and

(c) where the matter is not remedied to the employee's satisfaction after the employee reports in accordance with clauses (a) and (b), report it to the Division. 1996, c. 7, s. 17.

Self-employed persons' precautions and duties

18 Every self-employed person shall

(a) take every reasonable precaution in the circumstances to protect the self-employed person's own health and safety and that of other persons who may be affected by the self-employed person's undertaking;

(b) co-operate with any employer, joint occupational health and safety committee or health and safety representative that may be found at a place at which the self-employed person conducts an undertaking, to protect the self-employed person's own health and safety and that of other persons who may be affected by the undertaking;

(c) co-operate with any person performing a duty or exercising a power conferred by this Act or the regulations; and

(d) comply with this Act and the regulations. 1996, c. 7, s. 18.

Owners' precautions and duties

19 Every owner shall

(a) take every precaution that is reasonable in the circumstances to provide and maintain the owner's land or premises being or to be used as a workplace

(i) in a manner that ensures the health and safety of persons at or near the workplace, and

(ii) in compliance with this Act and the regulations; and

(b) give to the employer at the workplace the information that is

(i) known to the owner or that the owner could reasonably be expected to know, and

(ii) necessary to identify and eliminate or control hazards to the health or safety of persons at the workplace. 1996, c. 7, s. 19.

Precautions to be taken by providers of service

20 Every person or body who, for gain, is a provider of an occupational health or safety service shall take every precaution that is reasonable in the circumstances to

(a) ensure that no person at a workplace is endangered as a result of the provider's activity; and

(b) ensure, where the service involves providing information, that the information provided, at the time that it is provided, is accurate and sufficiently complete to enable the recipient to make a competent judgement on the basis of the information. 1996, c. 7, s. 20.

Precautions to be taken by architects and engineers

21 (1) An architect, as defined in the *Architects Act*, who gives advice or affixes the architect's seal to documents or a professional engineer, as defined in the *Engineering Profession Act*, who gives advice or stamps documents shall take every precaution that is reasonable in the circumstances to ensure that a person who is likely to rely on the advice, seal or stamp will not be in contravention of this Act or the regulations as a result of such reliance.

(2) Where

(a) an architect, as defined in the *Architects Act*, gives advice or affixes the architect's seal to documents; or

(b) a professional engineer, as defined in the *Engineering Profession Act*, gives advice or stamps documents,

negligently or incompetently and a person at a workplace is endangered thereby, the architect or professional engineer contravenes this Act. 1996, c. 7, s. 21.

Required instruction in principles

22 The curricula of

(a) an occupational-training program within the meaning of the *Private Career Colleges Regulation Act*;

(b) a program of study within the meaning of the *Community Colleges Act*; and

(c) any other educational institution or class of educational institution designated pursuant to the regulations,

shall include instruction in the principles of occupational health and safety contained in this Act. 1996, c. 7, s. 22; 2010, c. 66, s. 6.

Nature and extent of duties and requirements

23 (1) A specific duty or requirement imposed by this Act or the regulations does not limit the generality of any other duty or requirement imposed by this Act or the regulations.

(2) Where a provision of this Act or the regulations imposes a duty or requirement on more than one person, the duty or requirement is meant to be imposed primarily on the person with the greatest degree of control over the matters that are the subject of the duty or requirement.

(3) Notwithstanding subsection (2), but subject to subsection (5), where the person with the greatest degree of control fails to comply with a duty or

requirement referred to in subsection (2), the other person or persons on whom the duty or requirement lies shall, where possible, comply with the provision.

(4) Where the person with the greatest degree of control complies with a provision described in subsection (2), the other persons are relieved of the obligation to comply with the provision only

(a) for the time during which the person with the greatest degree of control is in compliance with the provision;

(b) where simultaneous compliance by more than one person would result in unnecessary duplication of effort and expense; and

(c) where the health and safety of persons at the workplace is not put at risk by compliance by only one person.

(5) Where the person with the greatest degree of control fails to comply with a provision described in subsection (2) but one of the other persons on whom the duty or requirement is imposed complies with the provision, the other persons, if any, to whom the provision applies are relieved of the obligation to comply with the provision in the circumstances set out in clauses 4(a) to (c) with the necessary modifications. 1996, c. 7, s. 23.

OCCUPATIONAL HEALTH AND SAFETY ADVISORY COUNCIL

Continuation of Council

24 (1) The Occupational Health and Safety Advisory Council, established by the former Act, is hereby continued.

(2) The Minister shall appoint to the Council persons who have a particular knowledge and experience relating to the protection and promotion of occupational health and safety generally. 1996, c. 7, s. 24.

Membership of Council and subcommittees

25 (1) The membership of the Council shall include equal representation from employers and employees.

(2) In addition, the Director and the Chair of the Workers' Compensation Board, or a person designated to represent the Chair, and a representative of any group or groups selected by the Minister are members of the Council.

(3) and **(4)** *repealed 2010, c. 66, s. 7.*

(5) A member of the Council holds office during the term prescribed in that person's appointment and may be re-appointed.

(5A) A member of the Council whose term of office expires may, with the approval of the Minister, remain on the Council until a successor is appointed.

(6) The Council may, with the approval of the Minister, appoint one or more subcommittees of the Council and a subcommittee shall perform any of the functions described in Section 26, as determined by the Council.

(7) For greater certainty, a person who is not a member of the Council may be a member of a subcommittee of the Council.

(8) The Minister may designate one employer representative and one employee representative as co-chairs of the Council.

(9) Persons appointed to the Council or a subcommittee of the Council shall be paid the reasonable expenses incurred by them in the course of carrying out their duties for the Council or subcommittee of the Council, plus such remuneration as is determined by the Minister. 1996, c. 7, s. 25; 2004, c. 6, s. 24; 2010, c. 66, s. 7.

Functions of Council

26 The Council may advise the Minister on

(a) the administration of this Act and the regulations;

(b) occupational health and safety including, but not limited to, providing recommendations, giving advice and monitoring and reporting on occupational health and safety throughout the Province;

(c) the exclusion of any profession, employee, employer, workplace, project, owner, occupation, industry, self-employed person or dependent contractor from all or part of the application of this Act or the regulations;

(d) any other matter relating to occupational health and safety. 1996, c. 7, s. 26.

OCCUPATIONAL HEALTH AND SAFETY POLICY

Requirement for policy

27 **(1)** Where

(a) five or more employees are regularly employed by an employer other than a constructor or contractor;

(b) five or more employees are regularly employed directly by a constructor or contractor, not including employees for whose services the constructor or contractor has contracted;

(c) the regulations require an occupational health and safety policy; or

(d) an officer so orders,

the employer shall prepare and review, at least annually, a written occupational health and safety policy, in consultation with the committee or representative, if any.

(2) Where this Act or the regulations do not require there to be a committee at a workplace, consultation on the development of the policy shall be carried out by the employer and shall include discussion of the proposed policy at one or more workplace health and safety meetings involving the employees.

(3) The policy shall express the employer's commitment to occupational health and safety and shall include

(a) the reasons for the employer's commitment to health and safety;

(b) the commitment of the employer to co-operate with the employees in pursuing occupational health and safety; and

(c) the responsibilities of the employer, supervisors and other employees in fulfilling the commitment required pursuant to clause (b). 1996, c. 7, s. 27.

OCCUPATIONAL HEALTH AND SAFETY PROGRAM

Requirement for program

28 **(1)** Where

(a) twenty or more employees are regularly employed by an employer other than a constructor or contractor;

(b) twenty or more employees are regularly employed directly by a constructor or contractor, not including employees for whose services the constructor or contractor has contracted; or

(c) the regulations require an occupational health and safety program,

the employer shall establish and maintain a written occupational health and safety program, in consultation with the committee or representative, if any, that is adapted to the circumstances of the organization for the purpose of implementing the employer's policy, this Act and the regulations.

(2) The program shall include

(a) provision for the training and supervision of employees in matters necessary to their health and safety and the health and safety of other persons at the workplace;

(b) provision for the preparation of written work procedures required to implement safe and healthy work practices, including those required pursuant to this Act, the regulations or by order of

an officer, and identification of the types of work for which the procedures are required at the employer's workplace;

(c) provision for the establishment and continued operation of a committee required pursuant to this Act, including maintenance of records of membership, rules of procedure, access to a level of management with authority to resolve health and safety matters and any information required under this Act or the regulations to be maintained in relation to a committee;

(d) provision for the selection and functions of a representative where required pursuant to this Act, including provision for access by the representative to a level of management with authority to resolve health and safety matters;

(e) a hazard identification system that includes

(i) evaluation of the workplace to identify potential hazards,

(ii) procedures and schedules for regular inspections,

(iii) procedures for ensuring the reporting of hazards and the accountability of persons responsible for the correction of hazards, and

(iv) identification of the circumstances where hazards must be reported by the employer to the committee or representative, if any, and the procedures for doing so;

(f) a system for workplace occupational health and safety monitoring, prompt follow-up and control of identified hazards;

(g) a system for the prompt investigation of hazardous occurrences to determine their causes and the actions needed to prevent recurrences;

(h) maintenance of records and statistics, including reports of occupational health and safety inspections and occupational health and safety investigations, with provision for making them available to persons entitled to receive them pursuant to this Act; and

(i) provision for monitoring the implementation and effectiveness of the program.

(3) The employer shall make available a copy of the program

(a) to the committee or representative, if any; and

(b) on request, to an employee at the workplace. 1996, c. 7, s. 28.

JOINT OCCUPATIONAL HEALTH
AND SAFETY COMMITTEES

Requirement for committees

29 (1) At every workplace where twenty or more persons are regularly employed, the employer shall establish and maintain one joint occupational health and safety committee or, at the discretion of the employer, more than one such committee and, where twenty or more persons are regularly employed by one or more constructors at a project, a constructor shall establish and maintain a joint occupational health and safety committee for the project.

(2) At a workplace where fewer than twenty persons are regularly employed, the Director may

(a) consult with the employer and employees at the workplace regarding whether a committee should be formed at the workplace; and

(b) order that a committee be established.

(3) Where an order respecting establishment of a committee is given pursuant to subsection (2), the employer shall ensure that the committee is chosen and functioning in accordance with this Act within fifteen days of receipt of the order. 1996, c. 7, s. 29.

Committee where subsea coal mine

29A Notwithstanding Section 29, at a subsea coal mine where fewer than twenty persons are regularly employed, the employer shall establish and maintain a joint occupational health and safety committee where so prescribed by the regulations. 2007, c. 14, s. 7.

Composition and procedure of committee

30 (1) A committee shall consist of such number of persons as may be agreed to by the employer and the employees or their union or unions.

(2) At least half of the members of a committee shall be employees at the workplace who are not connected with the management of the workplace and the employer may choose up to one half of the members of the committee if the employer wishes to do so.

(3) The employees on the committee are to be determined by the employees they represent, or designated by the union that represents the employees.

(4) A committee shall meet at least once each month unless

(a) a different frequency is prescribed by the regulations; or

(b) the committee alters the required frequency of meetings in its rules of procedure.

(5) Where a committee alters the required frequency of meetings by its rules of procedure and the Director is not satisfied that the frequency of meetings is sufficient to enable the committee to effectively perform its functions, the frequency of meetings shall be as determined by the Director.

(6) An employee who is a member of a committee is entitled to such time off from work as is necessary to attend meetings of the committee, to take any training prescribed by the regulations and to carry out the employee's functions as a member of the committee, and such time off is deemed to be work time for which the employee shall be paid by the employer at the applicable rate.

(7) A committee shall establish its own rules of procedure and shall adhere to the applicable regulations.

(8) Unless a committee determines another arrangement for chairing the committee in its rules of procedure, two of the members of the committee shall co-chair the committee, one of whom shall be selected by the members who represent employees and the other of whom shall be selected by the other members.

(9) The rules of procedure established pursuant to subsection (7) shall include an annual determination of the method of selecting the person or persons who shall

(a) chair the committee; and

(b) hold the position of chair for the coming year.

(10) Where agreement is not reached on

(a) the size of the committee;

(b) the designation of employees to be members; or

(c) rules of procedure,

the Director shall determine the matter. 1996, c. 7, s. 30.

Functions of committees

31 It is the function of the committee to involve employers and employees together in occupational health and safety in the workplace and, without restricting the generality of the foregoing, includes

(a) the co-operative identification of hazards to health and safety and effective systems to respond to the hazards;

(b) the co-operative auditing of compliance with health and safety requirements in the workplace;

(c) receipt, investigation and prompt disposition of matters and complaints with respect to workplace health and safety;

(d) participation in inspections, inquiries and investigations concerning the occupational health and safety of the employ-

ees and, in particular, participation in an inspection referred to in Section 50;

(e) advising on individual protective devices, equipment and clothing that, complying with this Act and the regulations, are best adapted to the needs of the employees;

(f) advising the employer regarding a policy or program required pursuant to this Act or the regulations and making recommendations to the employer, the employees and any person for the improvement of the health and safety of persons at the workplace;

(g) maintaining records and minutes of committee meetings in a form and manner approved by the Director and providing an officer with a copy of these records or minutes on request; and

(h) performing any other duties assigned to it

(i) by the Director,

(ii) by agreement between the employer and the employees or the union, or

(iii) as are established by the regulations. 1996, c. 7, s. 31; 2010, c. 66, s. 8.

Deemed establishment of committee

32 Where a committee was established prior to January 1, 1986, and has been maintained, pursuant to a collective agreement or other arrangement in a workplace, and the Director is satisfied that such committee or arrangement provides benefits for the health and safety of employees equal to or greater than the benefits to be derived under a committee established pursuant to this Act, the committee or arrangement is deemed to have been established in compliance with this Act. 1996, c. 7, s. 32.

HEALTH AND SAFETY REPRESENTATIVES

Requirement for and functions of representatives

33 (1) At a workplace where no committee is required pursuant to Section 29 and where the number of persons employed is five or more, the employer shall cause the employees to select at least one health and safety representative from among the employees at the workplace who are not connected with the management of the workplace.

(2) At a project where no committee is required pursuant to Section 29 and where the number of persons employed is five or more, a constructor shall cause the employees to select at least one health and safety representative for the purposes of the project from among the employees at the project who are not connected with the management at the project.

(3) At a workplace where fewer than five persons are employed, the Director may

(a) consult with the employer and employees at the workplace regarding whether a representative should be selected at the workplace; and

(b) order that a representative be selected by the employees from among the employees at the workplace who are not connected with the management of the workplace.

(4) Where an order respecting the selection of a representative is given pursuant to subsection (3), the employer shall ensure that the representative is selected and functioning in accordance with this Act within fifteen days of receipt of the order.

(5) An employee who is a representative is entitled to such reasonable time off from work as is necessary to carry out the employee's functions as a representative, and such time off is deemed to be work time for which the employee shall be paid by the employer at the applicable rate.

(6) It is the function of the representative to be involved, on behalf of the employees together with the employer, in occupational health and safety in the workplace and, without restricting the generality of the foregoing, includes

(a) the co-operative identification of hazards to health and safety and effective systems to respond to the hazards;

(b) the co-operative auditing of compliance with health and safety requirements in the workplace;

(c) receipt of and co-operation with the employer in the investigation and prompt disposition of matters and complaints with respect to workplace health and safety;

(d) participation in inspections, inquiries and investigations concerning the occupational health and safety of the employees and, in particular, participation in an inspection referred to in Section 50;

(e) advising on individual protective devices, equipment and clothing which, complying with this Act and the regulations, are best adapted to the needs of the employees;

(f) advising the employer regarding a policy or program required by this Act or the regulations and making recommendations to the employer, the employees and any person for the improvement of the health and safety of persons at the workplace; and

(g) performing any other duties assigned to the representative

(i) by the Director,

(ii) by agreement between the employer and the employees or the union, or

(iii) as are established by the regulations. 1996, c. 7, s. 33.

COMMUNICATION OF INFORMATION

Response to written recommendations

34 (1) An employer who receives written recommendations from a committee or representative and a request in writing to respond to the recommendations, shall respond in writing to the committee or representative within twenty-one days, and the response shall

(a) indicate acceptance of the recommendations; or

(b) give reasons for the disagreement with any recommendations that the employer does not accept,

or, where it is not reasonably possible to provide a response before the expiry of the twenty-one day period, provide within that time a reasonable explanation for the delay, indicate to the committee or representative when the response will be forthcoming, and provide the response as soon as it is available.

(2) Where the committee or representative makes a request pursuant to subsection (1) and is not satisfied that the explanation provided for a delay in responding is reasonable in the circumstances, the chair or co-chairs of the committee, or representative, as the case may be, shall promptly report this fact to an officer. 1996, c. 7, s. 34.

Duty of employer to provide certain information

35 (1) An employer shall notify the committee or representative, if any, of the existence of reports of

(a) workplace occupational health or safety inspections; and

(b) workplace occupational health or safety monitoring or tests,

undertaken at the workplace by, or at the request of, an officer or the employer and, on request, the employer shall make the reports available to the committee or the representative.

(2) An employer shall make available to an employee at a workplace, on request, reports of

(a) workplace occupational health or safety inspections; and

(b) workplace occupational health or safety monitoring or tests,

undertaken at the workplace by, or at the request of, an officer or the employer.

(3) Within twenty-one days of receiving a request in writing from the committee, representative or, where there is no committee or representative, an employee at a workplace for any information of a health or safety nature other than that specified in subsection (1), the employer shall respond in writing and the response shall

(a) provide the requested information; or

(b) give reasons for not providing the information, in whole or in part,

and where it is not reasonably possible to provide a response before the expiry of the twenty-one day period, provide within that time a reasonable explanation for the delay, indicate to the committee, representative or employee when the response will be forthcoming and provide the response as soon as it is available.

(4) Where the committee, representative or employee makes a request pursuant to subsection (3) and is not satisfied that the explanation provided for a delay in responding is reasonable in the circumstances, the chair or co-chairs of the committee, the representative or the employee, as the case may be, shall promptly report this fact to an officer. 1996, c. 7, s. 35.

Duty of officer to provide certain information

36 An officer shall provide to the employer at a workplace reports of

(a) workplace occupational health or safety inspections; and

(b) workplace occupational health or safety monitoring or tests,

undertaken at the workplace by, or at the request of, an officer, and the employer shall comply with subsections 35(1) and (2). 1996, c. 7, s. 36.

Duty of employer to post certain information

37 The employer shall

(a) post and maintain the current names of the committee members or the representative, if any, and the means of contacting them; and

(b) post promptly, where there is a committee, the minutes of the most recent committee meeting and ensure they remain posted until superseded by minutes of the next committee meeting. 1996, c. 7, s. 37.

Availability of information at workplace

38 (1) Every employer shall

(a) make available for examination at the workplace

(i) a copy of the regulations that relate to the workplace, and

(ii) information and reports that an officer considers advisable to enable employees to become acquainted with

their rights and responsibilities pursuant to this Act and the regulations;

and

(b) post in a prominent place or places in the workplace capable of being easily accessed by the employees

(i) a current copy of this Act,

(ii) a code of practice required pursuant to this Act or the regulations,

(iii) a current telephone number for reporting occupational health or safety concerns to the Division, and

(iv) where the employer is required pursuant to this Act or the regulations to have an occupational health and safety policy, the policy,

and ensure they remain posted.

(2) Where anything other than the information listed in subsection (1) is required to be posted pursuant to this Act or the regulations, the person who has the duty to post shall

(a) post a legible copy of it in a prominent place or places in the workplace capable of being easily accessed by the employees; and

(b) ensure that it remains posted for at least seven days, or longer if additional time is necessary to enable employees at the workplace to inform themselves of the content, unless this Act or the regulations otherwise specify,

or in lieu of complying with clauses (a) and (b), shall provide the information to each employee, in writing. 1996, c. 7, s. 38.

Duty of employer to provide certain information

39 **(1)** Where

(a) an officer makes an order pursuant to this Act or the regulations against an employer;

(b) a compliance notice is required of an employer pursuant to subsection 56(1); or

(c) an appeal is initiated or disposed of pursuant to Section 69,

the employer shall, subject to subsections (2) and (3), immediately

(d) post the order, compliance notice, notice of appeal or decision; and

(e) deliver a copy of the order, compliance notice, notice of appeal or decision to the committee or representative, if any.

(2) An officer may authorize in writing an officer's order to be edited to protect a trade secret, secret manufacturing process or confidential personal information, the disclosure of which is limited pursuant to this Act.

(3) Where an order is edited pursuant to subsection (2), the authorization of the officer shall be affixed to the order and it shall be posted in accordance with this Act in substitution for the unedited order. 1996, c. 7, s. 39; 2013, c. 41, s. 2.

Service of documents

40 (1) For the purpose of this Act and the regulations and any proceedings thereunder, an order, notice or other document sent by regular mail is deemed to have been received ten days after the day on which it was mailed, unless the person to whom it was sent establishes that, acting in good faith, the person did not receive the order, notice or other document until a later date, through absence, incident, illness or other cause beyond the person's control.

(2) For the purpose of this Act and the regulations and any proceedings thereunder, an order, notice or other document that is to be served on a person must be served by

(a) personal service;

(b) a form of delivery that provides proof of delivery, sent to the last known address of the person being served; or

(c) electronic transmission, including facsimile or electronic mail.

(3) An order, notice or other document that is served on a person under clause (2)(b) is deemed to have been received five days after the date of the first attempted delivery, unless the person being served establishes that, acting in good faith, the person did not receive the order, notice or other document until a later date, through absence, incident, illness or other cause beyond the person's control.

(4) An order, notice or other document that is served on a person under clause (2)(c) is deemed to have been received the day after it was sent or, where that day is a Saturday or a holiday, on the next day that is not a Saturday or a holiday, unless the person being served establishes that, acting in good faith, the person did not receive the order, notice or other document until a later date, through absence, incident, illness or other cause beyond the person's control. 2013, c. 41, s. 3.

Right to annual summary of data

41 Where the *Workers' Compensation Act* applies to a workplace,

(a) a committee;

(b) a representative;

(c) an employee; or

(d) an employer,

at the workplace who so requests in writing shall receive an annual summary of data relating to the employer. 1996, c. 7, s. 41.

WORKPLACE MONITORING, MEASUREMENTS AND TESTS

Right of employee to observe and be paid

42 (1) Every employer shall permit an employee selected pursuant to subsection (2) to observe workplace occupational health or safety monitoring and the taking of samples, tests or measurements where a significant part of the rationale is based on either health or safety of employees at the workplace, unless the monitoring or taking of samples, tests or measurements takes place

(a) continuously or on a regular and frequent basis, except to observe the initial setup of the workplace occupational health or safety monitoring process and to be informed and observe the monitoring where there has been a malfunction of the monitor or alteration in the process;

(aa) in a situation that would violate an employee's personal privacy;

(b) in a location that is remote and is part of the regular task of a person employed at the location; or

(c) during an emergency situation,

and time spent by the employee in such activities is deemed to be work time for which the employee shall be paid by the employer at the applicable rate.

(2) Where there is

(a) a committee or representative at a workplace, the employee who observes workplace occupational health or safety monitoring and the taking of samples or measurements shall be selected by the committee or representative, as the case may be; or

(b) no committee or representative at a workplace, the employee who observes workplace occupational health or safety monitoring and the taking of samples or measurements shall be selected by the employees.

(3) Every employer shall provide

(a) reasonable notice to an observer of the commencement of the occupational health or safety monitoring and of the taking of samples or measurements undertaken pursuant to subsection (1); and

(b) access to a workplace for the purpose of the observation.

(4) Where an observer requests, the procedure for occupational health or safety monitoring and the taking of samples or measurements shall be identified and explained to the observer.

(5) Where an owner, constructor or contractor performs occupational health or safety monitoring or takes samples or measurements that relate to the health or safety of employees at the workplace,

(a) the owner, constructor or contractor shall provide reasonable notice to all employers at the workplace of the commencement of the occupational health or safety monitoring and of the taking of samples or measurements; and

(b) the requirements of subsections (1) to (4) apply.

(6) Where the monitoring, samples or measurements referred to in subsection (1) are conducted by, or at the request of, an officer, the officer may undertake the monitoring, samples or measurements whether or not notice has been given pursuant to subsection (3) or (5). 1996, c. 7, s. 42; 2010, c. 66, s. 10.

RIGHT TO REFUSE WORK

Right to refuse work and consequences of refusal

43 (1) Any employee may refuse to do any act at the employee's place of employment where the employee has reasonable grounds for believing that the act is likely to endanger the employee's health or safety or the health or safety of any other person until

(a) the employer has taken remedial action to the satisfaction of the employee;

(b) the committee, if any, has investigated the matter and unanimously advised the employee to return to work; or

(c) an officer has investigated the matter and has advised the employee to return to work.

(2) Where an employee exercises the employee's right to refuse to work pursuant to subsection (1), the employee shall

(a) immediately report it to a supervisor;

(b) where the matter is not remedied to the employee's satisfaction, report it to the committee or the representative, if any; and

(c) where the matter is not remedied to the employee's satisfaction after the employee has reported pursuant to clauses (a) and (b), report it to the Division.

(3) At the option of the employee, the employee who refuses to do any act pursuant to subsection (1) may accompany an officer or the committee or representative, if any, on a physical inspection of the workplace, or part thereof, being carried out for the purpose of ensuring others understand the reasons for the refusal.

(4) Notwithstanding subsection 50(8), an employee who accompanies an officer, the committee or a representative, as provided in subsection (3), shall be compensated in accordance with subsection (7), but the compensation shall not exceed that which would otherwise have been payable for the employee's regular or scheduled working hours.

(5) Subject to any applicable collective agreement, and subsection (3), where an employee refuses to do work pursuant to subsection (1), the employer may reassign the employee to other work and the employee shall accept the reassignment until the employee is able to return to work pursuant to subsection (1).

(6) Where an employee is reassigned to other work pursuant to subsection (5), the employer shall pay the employee the same wages or salary and grant the employee the same benefits as would have been received had the employee continued in the employee's normal work.

(7) Where an employee has refused to work pursuant to subsection (1) and has not been reassigned to other work pursuant to subsection (5), the employer shall, until clause (1)(a), (b) or (c) is met, pay the employee the same wages or salary and grant the employee the same benefits as would have been received had the employee continued to work.

(8) A reassignment of work pursuant to subsection (5) is not a reprisal pursuant to Section 45.

(9) An employee may not, pursuant to this Section, refuse to use or operate a machine or thing or to work in a place where

(a) the refusal puts the life, health or safety of another person directly in danger; or

(b) the danger referred to in subsection (1) is inherent in the work of the employee. 1996, c. 7, s. 43; 2024, c. 10, s. 14.

Restriction on assignment of work where refusal

44 Where an employee exercises the employee's right to refuse to work pursuant to subsection 43(1), no employee shall be assigned to do that work until the matter has been dealt with under that subsection, unless the employee to be so assigned has been advised of

(a) the refusal by another employee;

(b) the reason for the refusal; and

(c) the employee's rights pursuant to Section 43. 1996, c. 7, s. 44.

REPRISALS

Prohibition of "reprisal"

45 (1) In this Section and in Section 46, "reprisal" means an action that adversely affects an employee with respect to terms or conditions of employment or any opportunity for employment or promotion and includes dismissal, layoff, suspension, demotion, transfer of job or location, change in hours of work, coercion, intimidation, imposition of any discipline, reprimand or other penalty including reduction in wages, salary or other benefits, or the discontinuation or elimination of the job of the employee.

(2) No employer or union shall take, or threaten to take, a reprisal against an employee because the employee has acted in compliance with this Act or the regulations or an order or direction made thereunder or has sought the enforcement of this Act or the regulations or, without limiting the generality of the foregoing, because

(a) of the participation of the employee in, or association with, a committee or the employee has sought the establishment of a committee or performed functions as a committee member;

(b) of the association of the employee with a representative or the employee has sought the selection of a representative or performed functions as a representative;

(c) the employee has refused to work pursuant to subsection 43(1);

(d) the employee has sought access to information to which the employee is entitled by this Act or the regulations, or has been assigned the role of observer pursuant to Section 42;

(e) the employee has testified or is about to testify in any proceeding or inquiry pursuant to this Act or the regulations; or

(f) the employee has given information to the committee, a representative, an officer or other person concerned with the administration of this Act or the regulations with respect to the health and safety of employees at the workplace,

unless the employer or union, as the case may be, establishes that such action is solely motivated by legitimate business reasons.

(3) On an inquiry into a complaint pursuant to Section 46 alleging that there has been a failure by an employer or a union to comply with subsection (2), the burden of proving that there has been no such failure is upon the employer or the union, as the case may be. 1996, c. 7, s. 45; 2024, c. 10, s. 16.

Right to make complaint or file grievance

46 **(1)** An employee who complains that

(a) an employer has failed to pay wages, salary, pay or a benefit entitlement required pursuant to

(i) subsection 30(6), 33(5), 42(1), 43(4), 43(6), 43(7) or 50(8), or

(ii) the regulations; or

(b) an employer or a union has taken, or threatened to take, a reprisal contrary to subsection 45(2),

may

(c) where the employee is not subject to a collective agreement under which the employee is entitled to file a grievance, within thirty days, make a complaint in writing to an officer; or

(d) where the employee is subject to a collective agreement under which the employee is entitled to file a grievance,

(i) have the complaint dealt with by final and binding arbitration under the collective agreement, or

(ii) within thirty days, make a complaint in writing to an officer, if an arbitrator has not seized jurisdiction over the matter under the collective agreement, in which case the matter shall be dealt with by the arbitrator under the collective agreement.

(2) Where an officer receives a complaint pursuant to subsection (1), the officer shall investigate the complaint and

(a) issue an order specifying the provision of this Act or the regulations that has been contravened; or

(b) determine that there are no grounds upon which to issue an order, and so notify the complainant.

(3) Where the officer determines that an employer has failed to pay wages, salary, pay or a benefit entitlement required by a provision referred to in clause (1)(a), the officer's order issued pursuant to clause (2)(a) shall require, by a specified date,

(a) the employer to pay the wages, salary, pay or other benefits required by the provision referred to in clause (1)(a); or

(b) the employer or the union to do the things that, in the opinion of the officer, are necessary to secure compliance with this Act and the regulations.

(4) Where the officer determines that a reprisal has been taken or threatened against an employee contrary to subsection 45(2), the officer's order issued pursuant to clause (2)(a) shall require, by a specified date,

(a) the employer to reinstate the employee pursuant to the same terms and conditions under which the employee was formerly employed;

(b) the employer to pay any wages, salary, pay or other benefits that the employee would have earned but for the reprisal;

(c) that any reprimand or other references to the matter in the employer's records on the employee be removed;

(d) the reinstatement of the employee to the union and the payment by the union to the employee of any wages, salary, pay or other benefits that the employee would have earned but for the reprisal; or

(e) the employer or the union to do the things that, in the opinion of the officer, are necessary to secure compliance with this Act and the regulations.

(5) Where an order or decision of an officer made pursuant to clause (2)(a) is not appealed, the decision of the officer is final and binding. 1996, c. 7, s. 46; 2009, c. 24, s. 1; 2024, c. 10, s. 17.

OFFICERS, INSPECTIONS AND ORDERS

Powers of officers

47 For the purpose of ensuring compliance with this Act and the regulations and any order made thereunder, an officer may

(a) at a reasonable hour of the day or night enter and inspect a workplace, conduct tests and make such examinations as the officer considers necessary or advisable;

(b) require the production of records, drawings, specifications, books, plans or other documents in the possession of the employer that relate to the workplace or the health and safety of employees or other persons at the workplace and remove them temporarily for the purpose of making copies;

(c) require the production of documents or records that may be relevant to the investigation of a complaint pursuant to subsection 46(1), and remove them temporarily for the purpose of making copies;

(d) take photographs or recordings of the workplace and any activity taking place in the workplace;

(e) make any examination, investigation or inquiry as the officer considers necessary to ascertain whether there is compliance with this Act and the regulations and any order made under them;

(f) inspect, take samples and conduct tests of samples, including tests in which a sample is destroyed, of any material, product, tool, equipment, machine or device being produced, used or found at the workplace for which the officer shall be responsible, except for a sample that has been destroyed, until the material, product, tool, equipment, machine or device is returned to the person being inspected;

(g) examine a person with respect to matters pursuant to this Act or the regulations;

(h) for the purposes of an investigation, inquiry or examination made by the officer pursuant to this Act or the regulations, summons to give evidence and administer an oath or affirmation to a person;

(i) in an inspection, examination, inquiry or test be accompanied and assisted by or take with the officer a person having special, expert or professional knowledge of any matter;

(j) exercise such other powers as may be necessary or incidental to the carrying out of the officer's functions pursuant to this Act or the regulations. 1996, c. 7, s. 47.

Powers of peace officer under Summary Proceedings Act

48 While acting under the authority of this Act, an officer has and may exercise, in any part of the Province, all the powers, authorities and immunities of a peace officer under the *Summary Proceedings Act*. 2010, c. 66, s. 11.

Powers of a peace officer under Criminal Code

49 While acting under the authority of this Act, an officer has and may exercise, in any part of the Province, all the powers, authorities and immunities of a peace officer under the *Criminal Code* (Canada). 1996, c. 7, s. 49.

Accompaniment during inspections

50 (1) For the purpose of this Section, "inspection" means a physical inspection of a workplace, or any part or parts of a workplace, pursuant to the powers conferred upon an officer pursuant to Section 47.

(2) Where an officer conducts an inspection,

(a) the employer shall give the representative or an employee member of the committee, if any; and

(b) a representative of the employer shall have,

the opportunity to accompany the officer during the officer's inspection.

(3) Where there is no committee member representing employees or representative available, the officer may select one or more employees who shall accompany the officer during the officer's inspection.

(4) Where a representative or employee member of the committee is unavailable to accompany the officer during the officer's inspection, the officer shall endeavour to consult with a reasonable number of employees during the inspection.

(5) For greater certainty, where

(a) a person referred to in clause (2)(a) or (b) is unavailable to accompany an officer during the officer's inspection; and

(b) in the officer's opinion it is necessary to proceed with the inspection without accompaniment,

the officer may conduct the inspection without accompaniment.

(6) Notwithstanding subsections (2) and (3) and subject to subsection (7), an officer may question any person who is or was in a workplace either separate and apart from another person or in the presence of any other person regarding anything that is or may be relevant to the officer's inspection, examination, investigation, inquiry or test.

(7) The individual who is questioned pursuant to subsection (6) may request to be accompanied and may be accompanied by another person during the questioning.

(8) Subject to subsection 43(4), time spent by a committee member, representative or employee in accompanying or consulting with an officer during an inspection is deemed to be work time for which the committee member, representative or employee shall be paid by the employer at the applicable rate. 1996, c. 7, s. 50.

Power to issue stop orders

51 Where an officer determines that any device, equipment, machine, material or thing to be used by an employee or self-employed person

(a) is unsafe; or

(b) does not comply with the standards prescribed by this Act or the regulations,

the officer may order the supplier or any other person to stop selling, renting, leasing or otherwise supplying the device, equipment, machine, material or thing to any employer, employee or self-employed person. 1996, c. 7, s. 51.

Power to require reports, assessments and tests

52 Where

(a) an officer determines that there may be a risk to health or safety; and

(b) an employer, owner, contractor or constructor fails to establish that it would not be reasonably practicable to carry out the order,

the officer may order, at the expense of the employer, owner, contractor or constructor that the employer, owner, contractor or constructor, as the case may be,

(c) obtain a report or assessment from a person who possesses such special expert or professional knowledge or qualifications as are specified by the officer for the purpose of determining whether any biological, chemical or physical agent, material, equipment, machine, device, article, thing or procedure, in or about a workplace, conforms with this Act or the regulations or good professional practice; and

(d) cause any tests necessary to the production of the report or assessment to be conducted or taken. 1996, c. 7, s. 52.

Power to require workplace details

52A (1) Notwithstanding any other provision of this Act, where

(a) a person has repeatedly contravened this Act or the regulations or failed to comply with an order made pursuant to this Act or the regulations;

(b) the contravention or failure posed a risk of serious injury or death to a person; and

(c) the Director has reasonable grounds for believing that the person may in the future further contravene the Act or the regulations or fail to comply with an order made pursuant to this Act or the regulations, in the same or in a similar manner, at the same or at another workplace,

the Director may make an order, in writing, directing the person to provide

(d) details regarding the nature of the work to be conducted or expected to be conducted by that person or an employee of that person; and

(e) the address or location of the workplace at which the work is to be conducted.

(2) An order made pursuant to subsection (1) expires three months from the date it is made unless, before its expiry, it is renewed for a further three-month period by the Director.

(3) There is no limit on the number of times an order made pursuant to subsection (1) may be renewed, provided it is renewed each time before its expiry.

(4) During the time an order issued pursuant to subsection (1) is in effect, the Director may request further updated information from the person against whom the order was made. 2016, c. 14, s. 2.

Prohibition against disclosure of certain information

53 Except in accordance with this Act and the regulations, a person who, at the request of an officer, makes an examination, inquiry or a test pursuant to clause 47(i) shall not publish, disclose or communicate to a person any information, material, statement, report or result of any examination, test or inquiry acquired, furnished, obtained, made or received under the powers conferred pursuant to this Act or the regulations, and, for greater certainty, subsection 61(3) applies. 1996, c. 7, s. 53.

Service of notice of decision and right to appeal

54 Where

(a) an officer conducts an investigation of a work refusal by an employee pursuant to subsection 43(1) and the employee or employer is not satisfied with the advice provided by the officer or the failure to provide advice; or

(b) a complaint of an alleged contravention of this Act or the regulations is investigated by an officer and the officer does not issue an order that, in the opinion of the complainant, is necessary for the health or safety of persons at the workplace,

and the employee, employer or complainant so requests, the officer shall serve the employee, employer or complainant, as the case may be, in writing, with notice of the officer's decision and, where the employee, employer or complainant is an aggrieved person, the employee, employer or complainant may appeal the decision pursuant to Section 69. 1996, c. 7, s. 54; 2013, c. 41, s. 4.

Orders and consequences of orders

55 **(1)** An officer may give an order orally or in writing to a person for the carrying out of any matter or thing regulated, controlled or required by this Act or the regulations, and may require that the order be carried out within such time as the officer specifies.

(2) Where an officer makes an oral order pursuant to this Section, the officer shall confirm the oral order in writing.

(3) For greater certainty, an oral order is effective pursuant to this Act before it is confirmed in writing.

(4) Where an officer makes an order pursuant to subsection (1) and finds that the matter or thing referred to therein is a source of danger or a hazard to the health or safety of a person at the workplace, the officer may order that

(a) any place, device, equipment, machine, material or thing not be used until the order is complied with;

(b) work at the workplace or any part of the workplace stop until the order to stop work is withdrawn or cancelled by an officer;

(c) the workplace or any part of the workplace be cleared of persons and isolated by barricades, fencing or any other means suitable to prevent access thereto until the danger or hazard is removed.

(4A) Subject to the approval of the Director, where an order is made against an employer pursuant to clause (4)(b) or (c), and where

(a) that employer has repeatedly contravened this Act or the regulations or failed to comply with an order made pursuant to this Act or the regulations; and

(b) the contravention or failure posed a risk of serious injury or death to a person,

an officer may, where the officer has reasonable grounds for believing that the same or similar source of danger or hazard to the health or safety of a person exists or will exist at another of the employer's workplaces or at any part of that workplace, make an order

(c) requiring that work at another of the employer's workplaces or at any part of that workplace stop until the order to stop work is withdrawn or cancelled by an officer;

(d) requiring that another of the employer's workplaces or any part of that workplace be cleared of persons and isolated by barricades, fencing or any other means suitable to prevent access thereto until the danger or hazard is removed; or

(e) prohibiting the employer from starting work at another workplace or any part of that workplace.

(4B) When making an order pursuant to subsection (4A), the officer is not required to specify the address of the workplace or any part of the workplace that is the subject of the order.

(5) Where an order is made pursuant to clause (4)(c) or (4A)(d), no employer or supervisor shall require or permit an employee to enter the workplace or part of the workplace that is the subject of the order except for the purpose of doing work that is necessary or required to remove the danger or the hazard and only where the employee is protected from the danger or the hazard.

(6) Where an officer issues an order pursuant to this Section, the officer may affix to the workplace or to any device, equipment, machine, material or thing a copy or notice of the order and no person except an officer shall remove the copy or notice unless authorized to do so by an officer. 1996, c. 7, s. 55; 2016, c. 14, s. 3.

Compliance notices and determination of compliance

56 (1) Where an officer makes an order pursuant to this Act or the regulations, unless the officer records in the order that compliance with the order was achieved before the officer left the workplace, the person against whom an

order is made shall submit to the officer a compliance notice within the time specified in the order.

(2) Where a compliance notice is required pursuant to subsection (1), the officer shall specify in the order the time within which the person against whom the order is made shall submit the compliance notice to the officer.

(3) Notwithstanding the submission of a compliance notice, a person against whom an order is made achieves compliance with an order made pursuant to this Act or the regulations when an officer determines that compliance is achieved. 1996, c. 7, s. 56.

Prohibition against interference with officer

57 **(1)** No person shall hinder, obstruct, molest or interfere with an officer in the exercise of a power or the performance of a duty pursuant to this Act or the regulations.

(2) No person shall knowingly furnish an officer with false information or neglect or refuse to furnish information required by an officer in the exercise of the officer's powers or performance of the officer's duties pursuant to this Act or the regulations.

(3) A person who

(a) wilfully delays an officer in the exercise of the officer's powers or the performance of the officer's duties pursuant to this Act or the regulations; or

(b) fails to comply with a direction or summons of an officer given pursuant to this Act or the regulations or to produce any certificate or document that the person is required by this Act or the regulations to produce,

is guilty of obstructing the officer in the exercise of the officer's powers or the performance of the officer's duties pursuant to this Act.

(4) A person shall furnish all necessary means in that person's power to facilitate any entry, inspection, examination, testing or inquiry by an officer in the exercise of the officer's powers or performance of the officer's duties pursuant to this Act or the regulations. 1996, c. 7, s. 57.

CHEMICAL SAFETY

Restriction on use of chemicals

58 Where a biological, chemical or physical agent or a combination of such agents is used or intended to be used in the workplace and its presence in the workplace or the manner of its use is, in the opinion of the Director, likely to endanger the health or safety of an employee, the Director may, by notice in writing to the employer, constructor, contractor or self-employed person, order that

(a) labelling be utilized to identify at least the presence and composition, including common or generic names, of the biological, chemical or physical agent, the risks associated with its use and the measures to be taken in case of emergency;

(b) the use, intended use, presence or manner of use be

(i) prohibited,

(ii) limited or restricted in such manner as the Director specifies,

(iii) subject to such conditions regarding administrative control, work practices, engineering control and time limits for compliance as the Director specifies; or

(c) labelling be in accordance with applicable federal and Provincial regulations. 1996, c. 7, s. 58.

Duty of employer to prepare list of chemicals

59 (1) Subject to Section 61, unless the employer has received from the Director specific written direction to the contrary and the direction has not been revoked by the Director, the employer shall prepare a list of all chemical substances regularly used, handled, produced or otherwise present at the workplace that may be a hazard to the health or safety of the employees or that are suspected by the employees of being such a hazard, and the list shall identify all chemical substances by their common or generic names where they are known to the employer.

(2) The list referred to in subsection (1) shall include the trade name and the address of the supplier and manufacturer of any chemical substance, the chemical composition or common or generic name of which is unknown to the employer.

(3) The employer shall advise the committee at the workplace or the representative, if any, of the list referred to in this Section and any amendments to the list and, where there is no committee or representative, the employer shall advise the employees, the union, if any, a self-employed person and an officer upon request by any of them. 1996, c. 7, s. 59.

Duties of suppliers and manufacturers

60 (1) A supplier or manufacturer of a chemical substance shall, at the request of the Director, provide the following information with respect to a chemical substance referred to in subsection 59(1):

(a) the ingredients and their common or generic name or names;

(b) the composition and properties;

(c) the toxicological effect of the chemical substance;

(d) the effect of exposure to the chemical substance, whether by contact, inhalation or ingestion;

(e) the protective measures used or to be used regarding the chemical substance; and

(f) the emergency measures used or to be used to deal with exposure to the chemical substance.

(2) Where a supplier or manufacturer fails to provide the information referred to in subsection (1) within such time as is specified by the Director, the chemical substance for which the information has been requested is deemed to be an unsafe material and an order may be made pursuant to Section 51. 1996, c. 7, s. 60.

TRADE SECRETS

Extent of right to withhold trade secrets

61 (1) Notwithstanding anything contained in this Act or the regulations, an employer, a supplier or a chemical manufacturer may withhold trade secrets or information that might disclose a trade secret and the identity of a specific chemical, including the chemical name and other specific identification of a hazardous chemical, provided that the specific chemical identity is made available to health professionals in accordance with the procedures established by regulations made pursuant to this Act.

(2) Where a treating physician or nurse determines that

(a) a medical emergency exists; and

(b) the specific chemical identity of a hazardous chemical is necessary for emergency or first-aid treatment,

an employer, a supplier or a chemical manufacturer shall immediately disclose the specific chemical identity of a trade secret chemical to the treating physician or nurse regardless of the existence of a written statement of need or a confidentiality agreement, but the employer, supplier or chemical manufacturer may require a written statement of need and confidentiality agreement in accordance with regulations made pursuant to this Act as soon as circumstances permit.

(3) Notwithstanding Section 35, no person shall publish, disclose or communicate to a person a secret manufacturing process or trade secret acquired, furnished, obtained or received pursuant to this Act or the regulations. 1996, c. 7, s. 61.

MEDICAL INFORMATION

Disclosure of medical information

62 (1) Notwithstanding Section 35, no person shall disclose information obtained in a medical examination, test, X-ray or hospital record of an employee made, taken or provided pursuant to this Act except in a form calculated to prevent the information from being identified with a particular person or case or with the permission of the employee.

(2) No person to whom information is communicated in confidence pursuant to this Act or the regulations

(a) shall divulge the information, except in accordance with this Act and the regulations;

(b) is competent or compellable to divulge the information before a court or other tribunal or in any other proceeding. 1996, c. 7, s. 62.

ACCIDENTS

Notice of accident at the workplace

63 **(1)** The employer shall notify the Director

(a) as soon as possible, but in no case later than twenty-four hours, after a fire, flood or accident at the workplace that causes

(i) unconsciousness,

(ii) a fracture of the skull, spine, pelvis, arm, leg, ankle, wrist or a major part of the hand or foot,

(iii) loss or amputation of a leg, arm, hand, foot, finger or toe,

(iv) a third degree burn to any part of the body,

(v) loss of sight in one or both eyes,

(vi) asphyxiation or poisoning,

(vii) any injury that requires the admission to hospital, or

(viii) any injury that endangers the life,

of an employee, unless the injury can be treated by immediate first aid or medical treatment and the person can return to work the following day;

(b) as soon as possible, but in no case later than twenty-four hours, after

(i) an accidental explosion,

(ii) a major structural failure or collapse of a building or other structure,

(iii) a major release of a hazardous substance, or

(iv) a fall from a work area in circumstances where fall protection is required by the regulations,

at the workplace, whether any person is injured or not; and

(c) immediately when a person is killed from any cause, or is injured from any cause in a manner likely to prove fatal, at the workplace.

(2) A true copy of the notice of accident required to be given by an employer to the Workers' Compensation Board, pursuant to the *Workers' Compensation Act*, may be delivered to the Director as sufficient notice pursuant to this Section if it is delivered within the time required in subsection (1).

(3) Where notice is required to be sent to the Director pursuant to this Section, the employer shall notify the committee or representative at the workplace, if any. 1996, c. 7, s. 63; 2010, c. 66, s. 12; 2016, c. 14, s. 4.

Disturbance of accident scene

64 Except as otherwise directed by an officer, no person shall disturb the scene of an accident to which subsection 63(1) applies except as is necessary to

(a) attend to persons injured or killed;

(b) prevent further injuries; or

(c) protect property that is endangered as a result of the accident. 1996, c. 7, s. 64; 2016, c. 14, s. 5.

Duty to disclose accident information

65 Every person present at an accident when it occurred or who has any information relating to the accident shall, upon the request of an officer, provide to the officer such information respecting the accident as the officer requests. 1996, c. 7, s. 65.

CODE OF PRACTICE

Power to require code of practice

66 (1) The Director may, in writing, require an employer to establish a code of practice or adopt a code of practice specified by the Director.

(2) A code of practice established or adopted pursuant to subsection (1) may be revised or required to be revised from time to time by the Director. 1996, c. 7, s. 66.

APPEALS

Review of order or decision

67 (1) For the purpose of this Section and subsection 69(2), "alter" means vary, revoke or suspend the order or decision of an officer or make any order or decision that an officer may make under this Act or the regulations.

(2) Subject to the regulations, the Director may

(a) on the Director's own motion, review an order or decision of an officer; and

(b) by order, alter an order or decision of an officer after first consulting with the officer.

(3) When reviewing an order or decision of an officer, the Director may consider new information that was not available to the officer when the officer made the order or decision.

(4) The Director is not disqualified from reviewing an order or decision by reason only that the Director, in the course of performing the Director's powers, duties or functions pursuant to this Act, receives information regarding or communicates with a person concerning the matter to which the order or decision relates.

(5) An order of the Director made pursuant to clause (2)(b) that is not appealed pursuant to subsection 69(1) is final and binding.

(6) Subject to the regulations, where the Director alters an order or decision of an officer after reviewing it, the Director shall provide a copy of the Director's order to

(a) the employer;

(b) the person to whom the officer's order or decision was issued;

(c) the Board, if the Director's order is issued after the filing of a notice of appeal under subsection 69(2); and

(d) an aggrieved person, other than a person referred to in clauses (a) and (b), who has filed a notice of appeal, if the Director's order is issued after the filing of a notice of appeal under subsection 69(2),

and the employer shall communicate the order in accordance with subsection 39(1). 2013, c. 41, s. 5.

67A *repealed 2013, c. 41, s. 5*.

Labour Board

68 (1) The Board shall hear all appeals filed under this Act and the regulations.

(2) *repealed 2013, c. 41, s. 6*.

(3) Persons appointed to a panel of the Board constituted in accordance with subsection (1) must have knowledge and experience in matters of occupational health and safety.

(4) to **(8)** *repealed 2010, c. 37, s. 120*.

(9) The Director has standing as a party in any case that is appealed to the Board pursuant to this Act or the regulations.

(10) and **(11)** *repealed 2010, c. 37, s. 120*.

1996, c. 7, s. 68; 2009, c. 24, s. 4; 2010, c. 37, s. 120; 2010, c. 66, s. 14; 2013, c. 41, s. 6.

Right to appeal and consequences of appeal

69 **(1)** Subject to the regulations and subsection (2), an aggrieved person may appeal

(a) an order made by an officer pursuant to this Act or the regulations;

(b) the decision of an officer not to issue an order;

(c) the decision of an officer to advise an employee to return to work or the decision to provide no advice, pursuant to clause 43(1)(c);

(d) an order made by the Director pursuant to this Act or the regulations;

(e) any decision for which a right of appeal is provided in the regulations.

(2) Where an order or decision of an officer is appealed to the Board and the Director subsequently alters the decision in accordance with subsection 67(2), the appeal of the order or decision of the officer is terminated.

(2A) Subject to the regulations, an appeal pursuant to subsection (1) is initiated by filing a notice of appeal with the Board within thirty days after the order or decision is served on the recipient.

(3) Subject to the regulations, a notice of appeal filed pursuant to subsection (2) shall

(a) identify and state the order or decision appealed from;

(b) set out the grounds of the appeal and the relief requested, including any request for the suspension of all or a portion of the order or decision appealed from; and

(c) include any other information required pursuant to the regulations.

(4) Subject to the regulations, where the aggrieved person who appeals pursuant to subsection (1) has sufficient authority in the workplace to ensure that the notice of appeal is posted, the aggrieved person shall post a copy of the notice and, where the aggrieved person does not have such authority, the

aggrieved person shall serve a copy of the notice on the employer and the employer shall communicate it in accordance with subsection 39(1).

(5) Subject to the regulations, on receipt of a notice of appeal,

(a) the Board shall forthwith provide a copy of the notice of appeal to the Director; and

(b) the Board shall hold a hearing, either orally or by way of written submissions, that provides any aggrieved persons who have so requested the opportunity to present evidence and make representations, in accordance with the regulations.

(6) Subject to the regulations, the Board may, by order, confirm, vary, revoke or suspend the order or decision appealed from or make any order that an officer is empowered to make pursuant to this Act.

(7) Subject to subsection (8) and the regulations, an appeal of an order or decision pursuant to subsection (1) does not suspend the operation of the order or decision.

(8) Subsection (7) does not apply to an appeal of an order of an officer or the Director regarding a provision referred to in subsection 46(1).

(9) Notwithstanding subsection (7) but subject to the regulations, the Board may order the suspension of the operation of an order or decision until the appeal is disposed of.

(10) Subject to the regulations, the Board shall provide a copy of its decision to

(a) the employer;

(b) the aggrieved person who appealed;

(c) any other aggrieved person who has made representations in relation to the matter appealed; and

(d) the Director,

and the employer shall communicate the decision in accordance with subsection 39(1). 1996, c. 7, s. 69; 2007, c. 14, s. 7; 2009, c. 24, s. 5; 2010, c. 37, s. 121; 2010, c. 66, s. 15; 2011, c. 24, s. 5; 2013, c. 41, s. 7.

Appeals may be heard together

69A Subject to the regulations, where an aggrieved person has more than one appeal made pursuant to the Act or the regulations pending before the Board, the Board may hear the appeals together but shall render a separate decision for each appeal. 2013, c. 41, s. 8.

Jurisdiction of Board and court review

70 **(1)** Subject to subsection (2), the Board has exclusive jurisdiction to determine all questions of

(a) law respecting this Act;

(b) fact; and

(c) mixed law and fact,

that arise in any matter before it, and a decision of the Board is final and binding and not open to review except for error of law or jurisdiction.

(2) The review of a decision of the Board shall be conducted

(a) by the Nova Scotia Court of Appeal, and only with leave of that Court; and

(b) with recognition that a panel of the Board is constituted ~~is established~~, for the purpose of this Act, as an expert body.

(3) The Director has standing as a party in a review conducted pursuant to subsection (2). 1996, c. 7, s. 70; 2010, c. 37, s. 122.

ENFORCEMENT

Registration of decision or order with Supreme Court

71 **(1)** A final decision or order of an arbitrator, an officer, the Director or the Board regarding a claim arising from subsection 30(6), 33(5), 42(1), 43(4), 43(6), 43(7), 45(2) or 50(8) or subclause 46(1)(a)(ii) may, for the purpose of enforcement thereof, be registered with the Supreme Court of Nova Scotia and shall be enforced in the same manner as a judgment of that Court.

(2) To register a final decision or final order referred to in subsection (1) with the Supreme Court of Nova Scotia, the Director may make a certified copy of the decision or order, upon which shall be made the following endorsement, signed by the Director:

Register the within with the Supreme Court of Nova Scotia.

Dated this . . . . . day of . . . . . , 19.....

. . . . . .
Director

(3) The Director may forward the certified copy referred to in subsection (2), so endorsed, to a prothonotary of the Supreme Court of Nova Scotia who shall, on receipt of the certified copy, enter it as a record and it shall thereupon be registered with the Supreme Court and enforceable as a judgment of that Court.

(4) Where a decision or order referred to in subsection (1) is registered with the Supreme Court of Nova Scotia, a subsequent decision or order rescinding or varying the first-mentioned decision or order may, in the same man-

ner, be registered with the Supreme Court and enforced in the same manner as a judgment of the Supreme Court. 1996, c. 7, s. 71; 2010, c. 37, s. 123.

Enforcement of final decision or order

72 **(1)** The Director may request the Director of Labour Standards to enforce a final decision or order of an officer, the Director or the Board regarding a complaint that an employer has failed to pay wages, salary, pay or a benefit entitlement required pursuant to subsection 30(6), 33(5), 42(1), 43(4), 43(6), 43(7), 45(2) or 50(8) or subclause 46(1)(a)(ii).

(2) A decision or order referred to in subsection (1) shall, for the purpose of enforcement pursuant to subsection (1), be made an order of the Board pursuant to the *Labour Standards Code* and may be enforced in the same manner as an order of the Labour Standards Tribunal may be enforced.

(3) To make a final decision or order an order of the Board pursuant to the *Labour Standards Code*, the Director shall make a certified copy of the decision or order, upon which shall be made the following endorsement, signed by the Director:

Make the within an order of the Labour Board.

Dated this . . . . . day of . . . . . , 19.....

. . . . . .
Director

and the Director shall forward the certified copy, so endorsed, to the Director of Labour Standards and the Board.

(4) The Director of Labour Standards may enforce a final decision or order referred to in subsection (1) as if the decision or order were an order made by the Board under Section 26 of the *Labour Standards Code* and, for greater certainty, Sections 87, 88, 89A, 90 and 90A of the *Labour Standards Code* apply *mutatis mutandis*.

(5) Where the Director

(a) provides the Director of Labour Standards with a certified copy of an order of an officer, the Director or the Board regarding a complaint that an employer has failed to pay wages, salary, pay or a benefit entitlement required pursuant to subsection 30(6), 33(5), 42(1), 43(4), 43(6), 43(7), 45(2) or 50(8) or subclause 46(1)(a)(ii), whether the order is final or not; and

(b) requests the Director of Labour Standards to treat the order as a complaint pursuant to Section 81 of the *Labour Standards Code*,

the Director of Labour Standards may exercise the power set out in Section 85(1) of the *Labour Standards Code* and subsections 85(2), 85(3), 85(3A) and 85(4) of the *Labour Standards Code* apply.

(6) Any money received by the Board pursuant to the *Labour Standards Code* as a result of a request made by the Director pursuant to clause 5(b) shall be held in trust by the Board for the employer concerned.

(7) Where

(a) the appeal period has expired; or

(b) any appeal has been disposed of,

whichever is later, regarding an order or decision of an officer, the Director or the Board respecting payment, by the employer to the employee, of money held in trust pursuant to subsection (6), the Board shall pay the employee from the trust money up to the amount specified in the order and the surplus, if any, shall be paid to the employer.

(8) Where a decision is made an order of the Board pursuant to the *Labour Standards Code*, a decision or order rescinding or varying the first-mentioned decision is deemed to rescind or vary the order of the Board and may be made an order of the Board in accordance with this Section. 1996, c. 7, s. 72; 2010, c. 37, s. 124.

Power to arrest

73 (1) A police officer who has reasonable and probable grounds to believe that a person is failing to comply with an order issued pursuant to subsection 55(4) may arrest the person without warrant and shall take the person before a justice as soon as practicable.

(2) A person taken before a justice pursuant to subsection (1) is entitled to an immediate hearing but, if a hearing cannot then be had, the person shall be released from custody on giving a personal undertaking to appear to answer to the charge at such time and place as shall then be fixed by the justice.

(3) A police officer who arrests a person pursuant to subsection (1) shall promptly inform the person of the reason for the arrest and of the right to retain and instruct counsel without delay. 1996, c. 7, s. 73.

Offences and penalties

74 (1) A person who

(a) contravenes this Act or the regulations; or

(b) fails to comply with

(i) an order or direction made pursuant to this Act or the regulations, or

(ii) a provision of a code of practice adopted pursuant to Section 66,

is guilty of an offence and liable on summary conviction to a fine as set out in subsections (1A) and (1B), or to a term of imprisonment not exceeding two years, or to both a fine and imprisonment.

(1A) A person is liable

(a) to a fine of not more than two hundred and fifty thousand dollars; or

(b) for a second or subsequent offence, within five years from the date of conviction for a previous offence, to a fine of not more than five hundred thousand dollars.

(1B) Notwithstanding subsection (1A), where the offence resulted in a fatality, the person is liable to a fine of not more than five hundred thousand dollars.

(2) In addition to a fine imposed pursuant to subsection (1A), (1B) or (3), the court may impose a fine not exceeding twenty-five thousand dollars for each additional day during which the offence continues.

(3) Where a person is convicted of an offence pursuant to this Act and the court is satisfied that, as a result of the commission of the offence, monetary benefits accrued to the offender, the court may order the offender to pay, in addition to a fine imposed pursuant to subsection (1A), (1B) or (2), a fine in an amount equal to the estimation by the court of the amount of the monetary benefits. 1996, c. 7, s. 74; 2011, c. 24, s. 6.

Powers of court on conviction

75 (1) Where a person is convicted of an offence pursuant to this Act[,] in addition to a fine imposed pursuant to Section 74 and~~,~~ in addition to any other punishment that may be imposed pursuant to this Act, the court may, having regard to the nature of the offence and the circumstances surrounding its commission, make an order

(a) directing the offender to publish, in the manner prescribed, the facts relating to the offence;

(b) directing the offender to pay to the Minister an amount for the purpose of occupational health and safety initiatives including, but not limited to, public education;

(c) on application by the Director made within three years after the date of conviction, directing the offender to submit to the Director such information with respect to the activities of the offender as the court considers appropriate and just in the circumstances;

(d) directing the offender to perform community service, subject to such reasonable conditions as may be imposed in the order;

(e) directing the offender to provide such bond or pay such amount of money into court as will ensure compliance with an order made pursuant to this Section;

(f) requiring the offender to comply with such other reasonable conditions as the court considers appropriate and just in the circumstances for securing the offender's good conduct and for preventing the offender from repeating the same offence or committing other offences.

(1A) *repealed 2011, c. 24, s. 7.*

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

(3) Where the court makes an order pursuant to clause(1)(b) directing the offender to pay an amount for the purpose of occupational health and safety initiatives or the Director incurs publication costs pursuant to subsection (2), the amount or costs constitutes a debt due to His Majesty in right of the Province and may be recovered as such in a court of competent jurisdiction.

(4) An order made pursuant to subsection (1) comes into force on the day on which it is made or on such other day as the court may order and shall not continue in force for more than three years after that day. 1996, c. 7, s. 75; 2010, c. 66, s. 16; 2011, c. 24, s. 7.

Injunction

75A (1) Where the Director has reasonable grounds for believing that

(a) a person has repeatedly contravened this Act or the regulations or failed to comply with an order made pursuant to this Act or the regulations;

(b) the contravention or failure posed a risk of serious injury or death to a person; and

(c) the person is or is likely to contravene this Act or the regulations or fail to comply with an order made pursuant to this Act or the regulations,

the Director may apply to a judge of the Supreme Court of Nova Scotia for an injunction to do one or more of the following:

(d) restrain the person from committing or continuing the contravention;

(e) require the person to comply with the order;

(f) restrain the person from carrying on an industry or an activity in an industry for a specific period or until such time as a specific event occurs,

and, where the judge considers it just, the judge may grant the injunction.

(2) The application referred to in subsection (1) must be made in accordance with the *Nova Scotia Civil Procedure Rules*.

(3) For the purpose of subsection (1), a person includes an officer, director, shareholder or another person who participates in the management and who influences the decisions of a corporation that is the subject of an application made pursuant to subsection (1), but does not include

(a) a lawyer, an accountant or other professional whose primary participation in the management of the corporation is the provision of professional services to the corporation; or

(b) a receiver or trustee appointed by a court to manage the corporation.

(4) A judge may, on motion, grant an interim injunction pending the hearing of an application for an injunction made pursuant to subsection (1).

(5) Where satisfied that it is fit and just to protect the health and safety of any person, a judge may grant an interim injunction pursuant to subsection (4) on an *ex parte* motion.

(6) An application may be made pursuant to subsection (1) notwithstanding any penalty that may be imposed pursuant to this Act. 2016, c. 14, s. 6.

Deemed act or omission of employer

76 **(1)** In a proceeding or prosecution against an employer pursuant to this Act or the regulations, the act or omission of a manager, a superintendent or another person who exercises management functions for the employer is deemed to be the act or omission of the employer.

(2) Notwithstanding subsection (1), the act or omission of a manager, a superintendent or another person who exercises management functions for the employer is not the act or omission of the employer where it is proven that the employer took every precaution reasonable in the circumstances to ensure that the act or omission would not occur and the employer

(a) did not have actual knowledge of, or could not reasonably have known of, the act or omission; and

(b) did not expressly or impliedly consent to the act or omission. 1996, c. 7, s. 76.

Participation in offence

77 An officer, director, manager or agent of a corporation who directs, authorizes, assents to, acquiesces or participates in the commission of an offence pursuant to this Act is guilty of that offence. 1996, c. 7, s. 77.

Immunity from civil action

78 No action lies or shall be instituted against an officer, a committee, a member of a committee, a representative, the Director, the Board, a member of the Board or the Director of Labour Standards where that person or body is acting pursuant to the authority of this Act or the regulations for any loss or damage suffered by a person because of an act or omission done in good faith by the person or body

(a) pursuant to, or in the exercise or supposed exercise of, a power conferred by this Act or the regulations; or

(b) in the carrying out, or supposed carrying out, of a function or duty imposed by this Act or the regulations. 1996, c. 7, s. 78; 2007, c. 14, s. 7; 2010, c. 37, s. 125.

Limitation period for prosecution

79 A prosecution for an offence pursuant to this Act shall not be commenced more than two years after the later of

(a) the date on which the offence was committed; or

(b) the date on which evidence of the offence first came to the attention of an officer. 1996, c. 7, s. 79.

Analysts

80 (1) The Minister may appoint as an analyst any person who, in the opinion of the Minister, has the qualifications and experience to be so appointed and an analyst shall perform such functions and carry out such duties as may be determined by regulation.

(2) No document of an analyst may be received in evidence unless the party intending to produce it has given to the party against whom it is intended to be produced reasonable notice of that intention together with a copy of the document.

(3) The party against whom a document of an analyst is produced may, with leave of the court, require the attendance of the analyst for the purpose of cross-examination. 1996, c. 7, s. 80.

Proof of orders and other documents

81 In any proceeding or prosecution pursuant to this Act or the regulations,

(a) a copy of an order, decision, notice, report or certificate purporting to have been made or issued pursuant to this Act or the regulations and purporting to have been signed by a person authorized to make or issue the order, decision, notice, report or certificate;

(b) a document purporting to be a copy of a notice, drawing, record or other document, or any extract therefrom, given or made pursuant to this Act or the regulations and purporting to be certified by an officer or an analyst;

(c) a document purporting to certify the result of a test or an analysis of a sample of air and setting forth the concentration or amount of a biological, chemical or physical agent in a workplace, or part of a workplace, and purporting to be certified by an officer or an analyst;

(d) a document purporting to certify the result of a test or an analysis of any equipment, machine, device, article, thing or substance and purporting to be certified by an officer or an analyst;

(e) a document purporting to be signed by the Director stating that a report, request, notice or order was or was not given or received;

(f) a document purporting to be signed by a person authorized pursuant to this Act or the regulations to issue a certificate of examination or authorize a deviation, stating that on a specified day or during a specified period a person named in the document was or was not the holder of a certificate of examination or authorized for a deviation of regulations pursuant to this Act;

(g) a document setting out with reasonable particularity the conviction and sentence of a person for an offence pursuant to this Act or the regulations purporting to be signed by

(i) the person who made the conviction, or

(ii) the prothonotary or clerk of the court in which the conviction was made,

shall be admitted in evidence as *prima facie* proof of the order, decision, notice, report, certificate or document and the contents of the order, decision, notice, report, certificate or document, without proof of the signature or official character of the person appearing to have signed the order, decision, notice, report, certificate or document, as the case may be. 1996, c. 7, s. 81; 2013, c. 41, s. 9.

REGULATIONS

Regulations

82 (1) The Governor in Council may make such regulations as the Governor in Council considers necessary or advisable for the purpose of this Act or to ensure the health or safety of all persons at a workplace and, without limiting the generality of the foregoing, the Governor in Council may make regulations

(a) requiring an employer or class of employers to prepare a written policy or a written program;

(b) setting out the health or safety standards to be established and complied with at workplaces or classes of workplaces;

(c) establishing conditions regarding the design, construction and use of plants or undertakings in order to protect the health and safety of employees;

(d) prescribing standards or codes for devices, equipment, machines, material and things or adopting by reference all or part of a

standard or code, as the edition adopted is amended from time to time, or any change thereto, in whole or in part, with such modifications and additions as may be specified in the regulations, and providing for the prohibition of the use, sale, rental, lease or supply of any devices, equipment, machines, materials or things that do not comply with the prescribed or adopted standards or codes;

(e) prohibiting or controlling the manufacture, supply, storage, handling or use of any device, equipment, machine, chemical, biological or physical agent or material in order to protect the health or safety of employees;

(f) respecting the safe use of any device, equipment, machine, material or thing;

(g) imposing requirements regarding the testing, labelling or examination of any material that may affect the health and safety of employees;

(h) requiring the making of arrangements by employers for measuring and monitoring the atmospheric or other conditions of workplaces;

(i) requiring the use of certain protective devices, equipment or clothing by persons at a workplace or class of workplaces;

(j) requiring the making of arrangements by employers for the prevention of occupational disease and for securing the health of employees including, but not limited to, arrangements for medical examinations and health surveys;

(k) requiring and governing medical facilities or first-aid facilities to be located at workplaces;

(l) prescribing

(i) the making of reports by committees,

(ii) procedures for the operation of committees including, but not limited to, minimum requirements for the contents of, and a retention period for, minutes and records of committees,

(iii) the activities that may be carried on by committees or representatives within the functions described in subsection 31(1) or 33(6);

(m) altering the frequency of committee meetings required pursuant to this Act;

(n) prescribing additional requirements for the training of committee members or representatives including, but not limited to, requiring employers or classes of employers to provide for and pay for the training;

(o) increasing or decreasing the period of employment to be considered in a determination of the number of persons regularly employed at a workplace;

(p) excluding any profession, employee, employer, workplace, project, owner, occupation, industry, self-employed person or dependent contractor from all or part of the application of this Act or the regulations;

(q) designating occupations as hazardous occupations;

(r) determining the amount, manner and method of payments out of the Accident Fund;

(s) defining education and research to be paid for out of the Accident Fund;

(sa) determining the manner in which payment is to be made to the Minister pursuant to clause 75(1)(b);

(t) prescribing educational institutions or classes of educational institutions for which the curricula must include instruction in the principles of occupational health and safety contained in this Act;

(u) designating agencies, divisions or parts of other departments of the Government, or any other body constituted by an enactment, and their employees, to become part of the Division;

(v) prescribing the type of information to be transferred, the form in which information shall be transferred and the frequency of transfer of the information to be exchanged between the Division and the Workers' Compensation Board;

(w) prescribing records to be kept by employers and submitted to the Division;

(x) requiring the making of reports by employers to the Division;

(y) requiring the filing of drawings, layouts and specifications;

(z) prescribing information required to be provided by owners and the manner and form of its communication;

(aa) imposing requirements on health insurers and healthcare agencies to provide to the Division statistical reports regarding occurrences of injury and disease arising from employment;

(ab) prescribing procedures with respect to disclosure of information that is considered trade secrets;

(ac) prescribing confidentiality protection for trade secrets;

(ad) respecting the publication and distribution in the workplace of this Act and the regulations made pursuant to this Act;

(ada) respecting the Director's ability to review and alter an order or decision of an officer under subsection 67(2);

(ae) restricting the performance of certain tasks to persons having certain qualifications;

(af) prescribing the duties and functions of analysts;

(ag) establishing boards of examiners for the certification of occupational qualifications and providing processes for the issuance and revocation of certificates of examination;

(ah) altering the standard or processes according to which an application for a deviation from regulations must be considered pursuant to this Act;

(ai) prescribing regulations for which a deviation is not permitted pursuant to this Act;

(aj) modifying the provisions of the *Labour Standards Code* for the purposes of enforcement pursuant to this Act;

(ak) interpreting Sections 23 and 29 and subsections 33(1), (2) and (3) and 38(1) in the context of an industry, occupation, project or workplace;

(al) establishing a means of identifying the persons referred to in Section 23 and the manner of communicating the identity of the persons;

(am) enabling the adoption of a code of practice at a workplace containing one or more provisions from a regulation that would not otherwise apply to the workplace;

(an) respecting the establishment and administration of a system of administrative penalties, including, without limiting the generality of the foregoing, regulations

(i) prescribing who may impose administrative penalties,

(ii) prescribing time frames for imposing an administrative penalty,

(iii) respecting the payment of administrative penalties,

(iv) prescribing the content of a notice of administrative penalty,

(v) prescribing the dollar amount of administrative penalties,

(vi) prescribing how an administrative penalty may be revoked,

(vii) respecting the extension of the time frame for filing a notice of appeal of an order or decision made under this Act or the regulations in relation to a notice of administrative penalty,

(viii) respecting the remedies available on an appeal of an administrative penalty, and

(ix) respecting the use to be made of any funds collected through the imposition of administrative penalties, including where such funds are to be deposited or held;

(ao) respecting appeals pursuant to this Act and the regulations, including, without limiting the generality of the foregoing,

(i) who may be a party to an appeal,

(ii) limiting the amount of time available to parties to make representations at appeal hearings,

(iii) the contents of a notice of appeal,

(iv) the appeal of matters other than those permitted pursuant to this Act,

(v) the conduct and procedure of appeals generally,

(vi) respecting the effect of any defect in form or any technical irregularity in an appeal proceeding, and

(vii) the hearing of appeals together if an aggrieved person has more than one appeal made pursuant to the Act or the regulations pending before the Board;

(ap) prescribing forms for use pursuant to this Act;

(apa) respecting the effect of any defect in form or any technical irregularity that occurs in any order, decision, notice, report, certificate or other document issued pursuant to this Act and the regulations;

(aq) prescribing charges to recover the cost of services pursuant to this Act and fees in relation to appeals and deviations, certificates, licences, permits, review of documents and filing of documents;

(ar) defining words or expressions used but not defined in this Act.

(2) Without limiting the generality of this Section, the Governor in Council may, in respect of a subsea coal mine, make regulations that the Governor in Council considers necessary or advisable to ensure the health and safety of all persons at a subsea coal mine

(a) requiring the establishment of a committee;

(b) prescribing additional functions of a committee;

(c) prescribing additional requirements for the provision of resources or information to a committee;

(d) requiring the filing or approval of drawings, layouts, specifications, plans, procedures, methods, machinery and equipment; and

(e) *repealed 2013, c. 41, s. 10*.

(f) prescribing charges to recover the cost of services pursuant to this Act and fees in relation to matters referred to in clause (d).

(3) The exercise by the Governor in Council of the authority contained in subsections (1) and (2) is regulations within the meaning of the *Regulations Act*. 1996, c. 7, s. 82; 2007, c. 14, s. 7; 2010, c. 37, s. 126; 2010, c. 66, s. 17; 2013, c. 41, s. 10.

Authorized deviation from regulations

83 **(1)** Where an application is made in writing to the Director for authorization to deviate at a workplace or workplaces from a provision of the regulations, unless the standard to be used by the Director in considering an application is altered by regulation, the Director may authorize the deviation where the Director is satisfied that the deviation affords protection for the health and safety of employees equal to or greater than the protection prescribed by the regulations from which the deviation is requested.

(2) The Director may attach such terms and conditions to an authorization of a deviation pursuant to subsection (1) as the Director considers advisable.

(3) Subsections (4) to (13) apply to an application for a deviation made pursuant to subsection (1) unless

(a) the processes required pursuant to those subsections are altered by regulation; or

(b) a notice period is reduced or eliminated pursuant to subsection (15).

(4) Where the workplace location or locations exist for which a deviation pursuant to subsection (1) is requested, unless

(a) the committee or representative at a workplace, if any; or

(b) where there is no committee or representative, all the employees at the workplace,

agree otherwise, upon applying for a deviation, the applicant for the deviation shall post a copy of the application, ensure it remains posted for at least twenty-eight days and furnish a copy to the committee or representative, if any, at the workplace.

(5) Where the workplace location or locations for which a deviation pursuant to subsection (1) is requested are not yet in existence, the applicant shall, upon applying for a deviation, publish, at the applicant's cost, a notice of the application for a deviation

(a) that contains information regarding the deviation being requested; and

(b) where it would reasonably be expected to come to the attention of persons interested in health and safety who might be affected by the decision regarding the deviation.

(6) After receiving an application for a deviation pursuant to subsection (1), the Director may conduct such consultation or give such notice of the application as the Director considers advisable.

(7) The applicant for a deviation pursuant to subsection (1) shall submit with the application, at the applicant's cost,

(a) the technical information required to enable the Director to determine the application;

(b) information with respect to the benefits and drawbacks to health and safety that might reasonably be anticipated if the deviation is authorized; and

(c) any fee prescribed by the regulations.

(8) The applicant for a deviation pursuant to subsection (1) for an existing workplace location or locations shall ensure that the information required pursuant to clauses (7)(a) and (b) is made available for examination at the applicant's workplace by the committee or representative, if any, and by the employees.

(9) The Director may make available the information required pursuant to clauses (7)(a) and (b) to any person for examination on request.

(10) A decision by the Director pursuant to subsection (1) shall

(a) not be made less then twenty-eight days following the date of the application; and

(b) be accompanied by written reasons for the decision that shall include

(i) the information considered in arriving at the decision and the rationale for the decision,

(ii) the specifics of a deviation that is authorized, including the location of the workplace or workplaces where the deviation applies, and

(iii) the details of any terms or conditions attached to the authorization of a deviation.

(11) The applicant for a deviation pursuant to subsection (1) shall ensure that

(a) a copy of the Director's decision is

(i) posted for at least seven days, or longer if additional time is necessary to enable employees at the workplace to inform themselves of the content, and

(ii) furnished to the committee or representative, if any, at the workplace; and

(b) where a deviation is authorized, a copy of the Director's decision is posted and maintained throughout the time the deviation is in effect.

(12) The Director shall provide a copy of the decision referred to in subsection (10) to anyone from whom the Director has received a written response to the application for a deviation pursuant to subsection (1).

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

(14) The Director may, at the initiative of the Director or upon application, reconsider, confirm, vary, revoke or suspend the Director's decision regarding a deviation at any time when information is produced that, had it been known when the request for the deviation was determined previously, would reasonably be expected to have resulted in a different decision from the one made at that time, and subsections (1) to (13) apply with the necessary modifications.

(15) Notwithstanding the periods of notice required pursuant to this Section, where information that was not available at the time a decision was made by the Director regarding a deviation pursuant to this Section is produced that indicates that imminent danger might result as a result of the deviation, the Director may reduce or eliminate a period of notice required pursuant to this Section. 1996, c. 7, s. 83.

TRANSITIONAL PROVISIONS

84 *repealed 2010, c. 66, s. 18*.

Enforcement under Act and substituted references

85 **(1)** Any regulation, order or direction made under the *Metalliferous Mines and Quarries Regulation Act*, the *Coal Mines Regulation Act* or the former Act or under any Act relating to occupational health and safety may be enforced as if the regulation, order or direction were made pursuant to this Act.

(2) Any reference in any Act of the Legislature or in any rule, order, regulation, by-law, ordinance or in any document whatsoever to the Occupational Safety Division of the Department of Labour and Manpower, the Occupational Health Division of the Department of Health, the Mine Safety Division of the Department of Mines and Energy or the Accident Prevention Division of the Workers' Compensation Board, whether such reference is by official name or otherwise, shall, as regards any subsequent transaction, matter or thing relating to the affairs or matters or any of them assigned to those divisions, be held and construed to be a reference to the Division, as defined in this Act. 1996, c. 7, s. 85.

EFFECTIVE DATES

Coal Mines Regulation Act repealed

86 Chapter 73 of the Revised Statutes, 1989, the *Coal Mines Regulation Act,* is repealed. 1996, c. 7, s. 86.

Metalliferous Mines and Quarries Act repealed

87 Chapter 284 of the Revised Statutes, 1989, the *Metalliferous Mines and Quarries Regulation Act,* is repealed. 1996, c. 7, s. 87.

Former Act repealed

88 The former Act is repealed. 1996, c. 7, s. 88.

Effective dates

89 (1) Section 22 has effect on and after July 1, 1999, or such earlier day as the Governor in Council orders and declares by proclamation.

In force - July 1, 1999

(2) Section 27 has effect on and after July 1, 1997.

(3) Section 28 has effect on and after January 1, 1998.

(4) Sections 86 and 87 come into force on such day as the Governor in Council orders and declares by proclamation.

Proclaimed - August 11, 2003
In force - November 8, 2003

(5) This Act, except for Sections 22, 27, 28, 86 and 87, has effect on and after January 1, 1997. 1996, c. 7, s. 89.