

PRINCE EDWARD ISLAND
ÎLE-DU-PRINCE-ÉDOUARD

OCCUPATIONAL HEALTH AND SAFETY ACT

PLEASE NOTE

This document, prepared by the ***Legislative Counsel Office***, is an office consolidation of this Act, current to August 1, 2023. It is intended for information and reference purposes only.

This document is ***not*** the official version of the Act. The Act and the amendments as printed under the authority of the King's Printer for the province should be consulted to determine the authoritative statement of the law.

For more information concerning the history of this Act, please see the ***Table of Public Acts*** on the Prince Edward Island Government web site (www.princeedwardisland.ca).

If you find any errors or omissions in this consolidation, please contact:

Legislative Counsel Office
Tel: (902) 368-4292
Email: legislation@gov.pe.ca

OCCUPATIONAL HEALTH AND SAFETY ACT

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OCCUPATIONAL HEALTH AND SAFETY ACT

CHAPTER O-1.01

DEFINITIONS

1. Definitions

In this Act

(a) "**Board**" means the Workers Compensation Board continued under the *Workers Compensation Act* R.S.P.E.I. 1988, Cap. W-7.1;

(b) "**committee**" means a joint occupational health and safety committee established under section 25;

(c) "**construction**" includes building, erection, excavation, alteration, repair, renovation, dismantling, demolition, structural maintenance, painting, moving, land clearing, earth moving, grading, street and highway building, concreting, equipment installation and alteration and the structural installation of construction components and materials in any form or for any purpose, and any work in connection therewith;

(d) "**constructor**" means a person who contracts to do work on a project for an owner or who undertakes work on a project as an owner;

(e) "**contractor**" means a person who contracts for work to be performed at the workplace of the person contracting to have the work performed, but does not include a constructor;

(f) "**Council**" means the Occupational Health and Safety Advisory Council continued under subsection 22(1);

(g) "**Director**" means the Director of Occupational Health and Safety appointed under section 5 or any person designated by the Director under subsection 6(2) to act on behalf of the Director;

(h) "**employer**" means a person who employs one or more workers or contracts for the services of one or more workers, and includes a constructor or contractor;

(i) "**former Act**" means the *Occupational Health and Safety Act* R.S.P.E.I. 1988, Cap. O-1;

(j) "**medical examination**" means a medical examination conducted by a medical practitioner;

(k) "**Minister**" means the Minister appointed by the Lieutenant Governor in Council to administer this Act;

(l) "**occupational disease**" means an occupational disease as defined in the *Workers Compensation Act*;

(m) "**officer**" means an occupational health and safety officer appointed under subsection 5(2) and includes the Director;

(n) "**owner**" includes

(i) a trustee, receiver, mortgagee in possession, tenant, lessee or occupier of lands or premises used or to be used as a workplace, and

(ii) a person who acts for or on behalf of a person referred to in subclause (i) as that person's agent or delegate;

(o) "**policy**" means an occupational health and safety policy made under this Act;

(p) "**program**" means an occupational health and safety program required under this Act, unless the context otherwise requires;

(q) "**project**" means a construction project, and includes

(i) the construction, erection, excavation, renovation, repair, alteration or demolition of a structure, building or tunnel 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;

(r) "**protective equipment**" means a piece of equipment or clothing designed to be used to protect the occupational health or safety of a worker;

(s) "**regularly employed**" includes seasonal employment with a recurring period of employment that exceeds 12 weeks;

(t) "**representative**" means an occupational health and safety representative selected under section 26;

(u) "**self-employed person**" means a person who is engaged in an occupation on that person's own behalf;

(v) "**supplier**" means a person who manufactures, supplies, sells, leases, distributes or installs any item, device, material, equipment or machinery or a biological, physical or chemical agent to be used by a worker;

(w) repealed by *2008,c.20,s.72;*

(x) "**worker**" means

(i) a person employed in a workplace,

(ii) a person in a workplace for any purpose in connection therewith;

(y) "**workplace**" means a place where a worker is or is likely to be engaged in an occupation and includes a vehicle, fishing vessel or mobile equipment used or likely to be used by a worker in an occupation. *2004,c.42,s.1; 2008,c.20,s.72(64).*

APPLICATION

2. Purpose of Act

The purpose of this Act is to secure workers and self-employed persons from risks to their safety, health and physical or psychological well-being arising out of, or in connection with, activities in their workplaces. *2004,c.42,s.2; 2018,c.45,s.1.*

3. Application

(1) Subject to subsection (2), this Act applies to all workplaces within the legislative jurisdiction of the province.

Exemption

(2) This Act does not apply to workplaces exempted by regulation from the application of this Act.

Application

(3) To the extent that the Government of Canada submits, this Act binds the Government of Canada, and every other person whose occupational health and safety standards are ordinarily within the legislative jurisdiction of the Parliament of Canada. *2004,c.42,s.3; 2022,c.62,s.49.*

ADMINISTRATION

4. Duties of the Board

(1) The Board shall

(a) administer this Act and the regulations;

(b) develop and maintain reasonable standards for the protection of the occupational health and safety of workers and self-employed persons in the province;

(c) provide services to assist committees, representatives, employers, workers and self-employed persons in maintaining reasonable standards of occupational health and safety;

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

(e) develop or provide access to educational programs and seminars to promote occupational health and safety;

(f) either alone, or in conjunction with departments or agencies, gather statistics related to accidents and occupational diseases of workers and self-employed persons; and

(g) carry out such activities as it may consider necessary to further the purposes of this Act.

Inspections for Government of Canada

(2) The Board may agree with the Government of Canada to carry out occupational health and safety inspections or other work on behalf of the Government of Canada. *2004,c.42,s.4.*

5. Director of Occupational Health and Safety

(1) The Board shall appoint a person employed by the Board as the Director of Occupational Health and Safety.

Officers and workers

(2) The Director shall appoint occupational health and safety officers as the Director considers necessary for the enforcement of this Act and the regulations. *2004,c.42,s.5; 2015,c.37,s.1.*

6. Duties of Director

(1) The Director shall

(a) cause workplaces to be inspected;

(b) enforce this Act and the regulations; and

(c) carry out other duties to further the purposes of this Act or as required by the Board.

Director may delegate

(2) The Director may delegate to any person employed by the Board any of the powers or duties of the Director under this Act or the regulations except the power to appoint occupational health and safety officers under subsection 5(2). *2004,c.42,s.6; 2015,c.37,s.2.*

7. Powers of officer

(1) Subject to subsection (3), an officer may investigate and determine compliance by any person with this Act and the regulations and an order made thereunder and an officer may

(a) at any reasonable time 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 occupational health and safety of workers 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, and remove them temporarily for the purpose of making copies;

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

(e) inspect, take samples and conduct tests of samples, including tests in which a sample is destroyed, of any item, device, material, equipment or machinery being produced, used or found at the workplace;

(f) in an inspection, examination, inquiry or a test, be accompanied and assisted by a person having special expertise or professional knowledge of any matter;

(g) make any examination, investigation or inquiry as the officer considers necessary;

(h) exercise such other powers as may be necessary or incidental to the carrying out of the officer's functions under this Act or the regulations; and

(i) require, in writing, an employer to produce any record or information, or to provide a report or an assessment, made or to be made by a person possessing such special expertise or professional knowledge or qualifications as are specified by the officer, of any biological, chemical or physical agents or combination of such agents used or intended to be used in a workplace.

Responsibility of officer

(2) An officer is responsible for a sample taken under clause (1)(e), until

(a) the sample has been destroyed; or

(b) the sample is returned to the workplace being inspected.

Entry in private residence

(3) An officer may enter the part of a private residence being used as a workplace

(a) with the consent of the occupier; or

(b) under the authority of a warrant issued under subsection (4).

Warrant

(4) A judicial justice of the peace may, on the application of the Director, issue a warrant authorizing an officer to enter the part of a private residence being used as a workplace, if the judicial justice of the peace is satisfied by information on oath that entry by the officer is necessary for any purpose relating to the administration and enforcement of this Act.

Persons entitled to accompany officer

(5) Where an officer conducts an inspection of a workplace under subsection (1), the owner, constructor, contractor, employer, supervisor or the person in charge of the workplace shall designate a representative of management to accompany the officer and shall provide a committee member representing workers, or a representative, if any, with the opportunity to

accompany the officer during the officer's inspection of a workplace, or any part of the workplace.

Consultation with workers

(6) Where there is no committee member representing workers or no representative, the officer shall consult during the inspection with a reasonable number of the workers at the workplace respecting matters of occupational health and safety at their workplace. *2004,c.42,s.7; 2018,c.52,s.69.*

8. Order

(1) Where an officer determines that a provision of this Act or the regulations is being contravened, the officer may issue an order, orally or in writing, to the owner, constructor, contractor, employer, supervisor or the person in charge of the workplace or to the person in contravention of this Act or the regulations, to comply with the provision and the officer may require that the order be carried out forthwith or within a time period specified by the officer.

Confirmation in writing

(2) Where an officer issues an oral order under subsection (1), the officer shall confirm the order in writing before leaving the workplace or promptly thereafter.

Content

(3) An order made under subsection (1) shall indicate the nature of the contravention and, where appropriate, the location of the contravention.

Orders where a worker is endangered

(4) Where an officer makes an order under subsection (1) and finds that the contravention determined under subsection (1) is a danger or hazard to the occupational health or safety of a worker, the officer may, in addition to an order made under subsection (1),

(a) order that the area, item, place, device, material, process, equipment or machinery shall not be used until the order made under subsection (1) is complied with;

(b) order that work stop at the workplace named in the order until the order is cancelled by an officer; or

(c) order that the workplace where the contravention exists be cleared of workers and isolated by barricades, fencing or any other means suitable to prevent access by a worker until the danger or hazard to the occupational health or safety of a worker is removed.

Posting of order

(5) Where an officer issues an order under subsection (1) or (4), the officer shall post at the workplace or affix to the item, device, material, equipment or machinery in the workplace a copy of the order.

Exception

(5.1) Subsection (5) does not apply to an order in relation to an occurrence of workplace harassment that contains

(a) individually identifying information about a worker or other person in the workplace; or

(b) other personal information, as defined in the *Freedom of Information and Protection of Privacy Act* R.S.P.E.I. 1988, Cap. F-15.01, about a worker or other person in the workplace.

Removal of order prohibited

(6) No person shall remove an order posted or affixed under subsection (5) unless authorized to do so by an officer.

Idem

(7) Where an officer makes an order in writing or issues a report of the inspection to an owner, constructor, contractor, employer, supervisor or a person in charge of the workplace, the officer shall

(a) forthwith cause a copy of the order to be posted in a conspicuous place at the workplace where it is most likely to come to the attention of the workers;

(b) provide a copy of the order or of the report to the representative, if any, and the committee, if any; and

(c) provide a copy of the order to the person who has complained of a contravention of this Act or the regulations. *2004,c.42,s.8; 2018,c.45,s.2.*

9. Entry into isolated workplace

(1) Where an order is made under clause8(4)(c), no owner, constructor, contractor, employer, supervisor or person in charge of the workplace shall require or permit a worker to enter the isolated workplace, except for the purpose of doing work that is necessary or required to remove the danger or hazard, and only where the worker is protected from the danger or hazard.

Application

(2) Where the Director believes on reasonable grounds that an order made under subsection 8(4) has been or is about to be contravened, the Director may, without notice to any person to whom the order is directed, apply to the Supreme Court for an order under subsection (3).

Order

(3) The Supreme Court may order that the contravention or anticipated contravention of an order made under subsection 8(4) be restrained on such terms and for such duration as the Supreme Court may consider just. *2004,c.42,s.9.*

10. Appeal to Director

(1) Any owner, constructor, contractor, employer, supervisor or person in charge of the workplace or worker affected by an order made by an officer under this Act or the regulations may appeal the order to the Director, who shall hear and dispose of the appeal as promptly as practicable.

Method of appeal

(2) An appeal to the Director may be made orally or in writing, but the Director may require the grounds for appeal be specified in writing before the appeal is heard.

Director may stay order

(3) Where an appeal has been made to the Director under subsection (1), the Director may, at the request of the appellant, stay the order appealed from pending the disposition of the appeal.

Parties

(4) The appellant, the officer who made the order appealed from, and such other persons as the Director may specify, are parties to an appeal made under this section.

Powers of Director

(5) On the conclusion of an appeal, the Director may

(a) affirm the order;

(b) rescind the order; or

(c) make a new order based on his or her findings.

Appeal

(6) A decision of the Director made under this section may be appealed under section 11.

Effect of stay

(7) Where an order is stayed under subsection (3), no steps may be taken under the order for its execution or enforcement. *2004,c.42,s.10.*

11. Notice of appeal to Board

(1) A person affected by a decision of the Director made under section 10 may give notice of appeal to the Board within 30 days of the date of the Director's decision.

Appointment of arbitrator

(2) Where the Board receives a notice of appeal under subsection (1), it shall appoint an arbitrator to determine the matter.

Hearing

(3) The arbitrator shall, as soon as is practicable, hold a hearing at which the appellant and the Director are entitled to make representations.

Powers

(4) An arbitrator appointed under subsection (2) has all the powers of a commissioner appointed under the *Public Inquiries Act* R.S.P.E.I. 1988, Cap. P-31.

Powers of arbitrator

(5) On the conclusion of the appeal, the arbitrator shall make a written decision and may

(a) affirm the order;

(b) rescind the order; or

(c) make a new order based on his or her findings.

Decision final and binding

(6) The decision of the arbitrator is final and binding on the parties to the appeal and on the Board.

Director may stay order

(7) Where a notice of appeal is filed under subsection (1), the Director may, at the request of the appellant, stay the order appealed from pending the disposition of the appeal.

Effect of stay

(8) Where an order is stayed under subsection (7), no steps may be taken under the order for its execution or enforcement. *2004,c.42,s.11.*

DUTIES OF EMPLOYERS, WORKERS AND OTHER PERSONS

12. Duties of employers

(1) An employer shall ensure

(a) that every reasonable precaution is taken to protect the occupational health and safety of persons at or near the workplace;

(b) that any item, device, material, equipment or machinery provided for the use of workers at a workplace is properly maintained, and is properly equipped with the safety features or devices, as recommended by the manufacturer or required by the regulations;

(c) that such information, instruction, training, supervision and facilities are provided as are necessary to ensure the occupational health and safety of the workers;

(d) that workers and supervisors are familiar with occupational health or safety hazards at the workplace;

(e) that workers are made familiar with the proper use of all safety features or devices, equipment and clothing required for their protection; and

(f) that the employer's undertaking is conducted so that workers are not exposed to occupational health or safety hazards as a result of the undertaking.

Idem

(2) An employer shall

(a) consult and cooperate with the joint occupational health and safety committee or the representative, as applicable;

(b) cooperate with any person performing a duty or exercising a power conferred by this Act or the regulations;

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

(d) comply with this Act and the regulations and ensure that workers 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 under this Act, establish the policy or program.

Duty respecting workplace harassment

(3) An employer shall establish and implement as a policy, in accordance with the regulations, measures to prevent and investigate occurrences of harassment in the workplace. *2004,c.42,s.12; 2018,c.45,s.3.*

13. Duties of constructor

A constructor shall ensure

(a) that every reasonable precaution is taken to protect the occupational 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) that the communication of information necessary to the occupational health and safety of persons at the project occurs between the employers and self-employed persons at the project;

(d) that communication is facilitated between the constructor and a committee or representative required by this Act for the project;

(e) that the measures and procedures in this Act and the regulations are carried out at the project; and

(f) that every worker, self-employed person and employer performing work in respect of the project complies with this Act and the regulations. *2004,c.42,s.13.*

14. Duties of contractor

A contractor shall ensure

(a) that every reasonable precaution is taken to protect the occupational 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) that the communication of information necessary to the occupational health and safety of persons at the workplace occurs between the employers and self-employed persons at the workplace;

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

(e) that every worker, self-employed person and employer performing work at the workplace complies with this Act and the regulations. *2004,c.42,s.14.*

15. Duties of supplier

A supplier shall ensure

(a) that any item, device, material, equipment or machinery supplied by the supplier to a workplace is, when it is supplied, properly equipped with the safety features or devices required by the regulations;

(b) that the item, device, material, equipment or machinery is maintained in safe working condition and in compliance with this Act and the regulations, where it is the supplier's responsibility under an agreement to maintain it; and

(c) that a biological, chemical or physical agent supplied by the supplier is labelled in accordance with the applicable federal and provincial regulations. *2004,c.42,s.15.*

16. Duties of worker

(1) A worker, while at work, shall

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

(b) cooperate with the employer and with the other workers to protect the worker's own occupational health and safety and that of other persons at or near the workplace;

(c) wear or use such individual protective equipment as is required by this Act and the regulations;

(d) consult and cooperate with the committee or representative, if any;

(e) cooperate 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 and any policy or program established by an employer pursuant to this Act or the regulations.

Idem

(2) Where a worker believes that any item, device, material, equipment or machinery, condition or aspect of the workplace is or may be dangerous to the worker's occupational health or safety or that of other persons at or near the workplace, the worker

(a) shall immediately report it to a supervisor;

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

(c) may, where the matter is not remedied to the worker's satisfaction after the worker reports it in accordance with clauses (a) and (b), report it to an officer.

Application of clause (2)(b)

(3) Clause (2)(b) does not apply in respect of a complaint of harassment in the workplace. *2004,c.42,s.16; 2018,c.45,s.4.*

17. Duties of self-employed person

A self-employed person shall

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

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

(c) cooperate 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. *2004,c.42,s.17.*

18. Duties of owner

An owner shall

(a) take every reasonable precaution to provide and maintain the owner's land or premises used as a workplace

(i) in a manner that ensures the occupational 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 occupational health or safety of persons at the workplace. *2004,c.42,s.18.*

19. Duties of service provider

A person who, for gain, is a provider of an occupational health or safety service shall take every reasonable precaution to ensure that

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

(b) where the service involves providing information, the information provided, at the time that it is provided, is accurate and sufficiently complete to ensure an understanding of the information by persons who will use the information at a workplace. *2004,c.42,s.19.*

20. Duties of architect and engineer

An architect, as defined by the *Architects Act* R.S.P.E.I. 1988, Cap. A-18.1, and a professional engineer, as defined by the *Engineering Profession Act* R.S.P.E.I. 1988, Cap. E-8.1, shall carry out their duties

(a) in such a manner as to ensure the occupational health and safety of persons at or near a workplace; and

(b) in compliance with this Act and the regulations. *2004,c.42,s.20.*

21. Instruction in occupational health and safety principles

(1) An operator of a private training school under the *Private Training Schools Act* R.S.P.E.I. 1988, Cap. P-20.2, shall offer in its curriculum instruction in the occupational health and safety principles contained in this Act.

Idem

(2) Notwithstanding the *Holland College Act* R.S.P.E.I. 1988, Cap. H-8, Holland College shall offer in its curriculum, in every course of study or training program, instruction in the occupational health and safety principles contained in this Act. *2004,c.42,s.21; 2016,c.49,s.55.*

OCCUPATIONAL HEALTH AND SAFETY ADVISORY COUNCIL

22. Council continued

(1) The Occupational Health and Safety Advisory Council established under the former Act is continued.

Knowledge and experience of members

(2) The Minister shall appoint as members to the Council persons who have knowledge and experience relating to the principles and promotion of occupational health and safety, as follows:

(a) three persons representing workers;

(b) three persons representing employers;

(c) the Director;

(d) the chairperson of the Board or a person designated by the chairperson;

(e) one person representing the general public.

Term of office

(3) The term of office of a member of the Council, or person appointed to act in place of a member of the Council, shall be the term specified in the instrument of appointment.

Vacancy

(4) Where a vacancy occurs on the Council, the Minister may appoint a person to act in place of a member of the Council.

***Re*-appointment**

(5) A member of the Council whose term of office has expired is eligible for *re*-appointment to the Council.

Subcommittees

(6) The Council may appoint one or more subcommittees of the Council and a subcommittee shall perform, as specified by the Council, any of the duties described in subsection (10).

Idem

(7) A person who is not a member of the Council may be a member of a subcommittee of the Council.

Chair

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

Expenses

(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.

Duties of Council

(10) The Council may advise the Board on

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

(b) occupational health and safety, including providing recommendations and monitoring and reporting on occupational health and safety throughout the province;

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

(d) any other matter relating to occupational health and safety, including amendments to this Act or the regulations. *2004,c.42,s.22.*

PROGRAM

23. Occupational health and safety program

(1) Where 20 or more workers are regularly employed

(a) by an employer other than a constructor or contractor; or

(b) directly by a constructor or contractor,

the employer, constructor or contractor shall establish, and review at least annually, a written occupational health and safety program, in consultation with the committee or representative, if any.

Not applicable to persons under contract

(2) For the purposes of subsection (1), a worker is not regularly employed directly by a constructor or contractor if the worker works with the constructor or contractor as an independent contractor.

Content of program

(3) An occupational health and safety program shall include

(a) provisions for the training and supervision of workers in matters necessary to their occupational health and safety and the occupational health and safety of other persons at or near the workplace;

(b) provisions for

(i) the preparation of written work procedures for the implementation of occupational health and safety work practices, required by this Act, the regulations or by order of an officer, and

(ii) the identification of the types of work for which the procedures are required at the employer's workplace;

(c) provisions for the establishment and continued operation of a committee required by this Act, including maintenance of records of membership, rules of procedure, access to a level of management with authority to resolve occupational health and safety matters, and information required by this Act or the regulations;

(d) provisions for the selection and functions of a representative where required by this Act, including provision for access by the representative to a level of management with authority to resolve occupational 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 shall 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) the maintenance of records and statistics, including reports of occupational health and safety inspections and investigations, with provision for making the reports available to persons entitled to receive them under this Act; and

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

Copies

(4) The employer shall make a copy of the program established under this section available

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

(b) on request, to a worker at the workplace.

Results not a report

(5) The results of a workplace harassment investigation do not constitute a report for the purposes of clause (3)(h). *2004,c.42,s.23; 2018,c.45,s.5.*

POLICY

24. Occupational health and safety policy

(1) Where five or more workers are regularly employed

(a) by an employer other than a constructor or contractor; or

(b) directly by a constructor or contractor,

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

Not applicable to persons under contract

(2) For the purposes of subsection (1), a worker is not regularly employed directly by a constructor or contractor if the worker works with the constructor or contractor as an independent contractor.

Consultation

(3) Where this Act does not require a committee or a representative, an employer shall consult the workers regarding the proposed policy.

Content of policy

(4) An occupational health and safety policy shall express the commitment of the employer to occupational health and safety including

(a) the commitment of the employer to cooperate with the workers in pursuing occupational health and safety; and

(b) a statement of the responsibilities of the employer, supervisors and other workers in fulfilling the commitment. *2004,c.42,s.24.*

COMMITTEE

25. Joint occupational health and safety committee

(1) At a workplace where 20 or more persons are regularly employed by an employer, the employer

(a) shall establish and maintain a joint occupational health and safety committee; and

(b) may establish additional such committees.

Idem

(2) Where 20 or more persons are regularly employed by one or more constructors at a project that is expected to last three months or more, a constructor shall establish and maintain a committee for the project.

Order

(3) At a workplace where fewer than 20 but more than five persons are regularly employed, the Director may consult with the workers and employers at the workplace regarding the establishment of a committee and the Director may order that a committee be established.

Idem

(4) Where the Director orders that a committee be established under subsection (3), the employer shall ensure that the committee is functioning in accordance with this Act within 30 days of receipt of the order.

Members

(5) A committee shall be composed of the number of persons

(a) agreed to by the workers or their union, and the employer; or

(b) ordered by the Director.

Membership of committee

(6) Membership of the committee shall be determined as follows:

(a) one-half of the members shall be selected by the union representing the workers or, in the absence of a union, by the workers that the members represent;

(b) one-half of the members shall be selected by the employer.

Duties of committee

(7) The committee shall

(a) cooperate to identify hazards to occupational health and safety in the workplace and effective systems to respond to the hazards;

(b) receive, investigate and promptly deal with issues respecting occupational health and safety, other than a complaint of workplace harassment;

(c) participate in inspections, inquiries and investigations respecting the occupational health and safety of workers in the workplace, other than an investigation of a complaint of workplace harassment;

(d) advise the employer on individual protective equipment, devices and safety features that are best suited to the needs of the workers, within the provisions of this Act and the regulations;

(e) advise the employer regarding a policy or program required by this Act;

(f) make recommendations to the employer, the workers and any other persons for the improvement of the occupational health and safety of persons at the workplace; and

(g) maintain records and minutes of committee meetings in a form and manner approved by the Director and provide an officer with a copy of those records and minutes at the request of the officer.

Meetings

(8) Subject to subsection (9), a committee shall meet at least once each month unless the committee otherwise provides in its rules of procedure.

Idem

(9) Where the Director is not satisfied that the frequency of meetings of a committee is sufficient to enable the committee to effectively perform its functions, the Director may order the committee to hold meetings at such frequency as the Director may specify.

Time off work

(10) A worker who is a member of a committee is entitled to take the necessary time off from work to attend meetings of the committee, to take training prescribed by the regulations and to carry out the worker's functions as a member of the committee.

Salary and benefits

(11) The time off from work referred to in subsection (10) shall be deemed to be work time for which the worker is entitled to the worker's usual salary and benefits, without change.

Rules of procedure

(12) A committee shall establish its own rules of procedure. *2004,c.42,s.25; 2018,c.45,s.6.*

REPRESENTATIVE

26. Occupational health and safety representative

(1) Where the number of workers employed at a workplace is five or more but no committee is required under section 25, the employer shall require the workers to select at least one representative from among the workers who do not perform managerial functions.

Idem

(2) Where the number of workers at a project is five or more but no committee is required under section 25, the constructor shall require the workers to select at least one representative from among the workers who do not perform managerial functions.

Idem

(3) Where the number of workers at a workplace is fewer than five, the Director may

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

(b) order that the workers select a representative if the Director considers that a representative is necessary to ensure that occupational health and safety issues in the workplace are monitored.

Time off work

(4) A worker who is a representative is entitled to take the necessary time off from work to attend meetings of the committee, to take training prescribed by the regulations and to carry out the worker's functions as a representative.

Salary and benefits

(5) The time off from work referred to in subsection (4) shall be deemed to be work time for which the worker is entitled to the worker's usual salary and benefits, without change.

Duties of representative

(6) A representative shall be involved on behalf of the workers, together with the employer, in occupational health and safety issues in the workplace and shall

(a) cooperate to identify hazards to occupational health and safety in the workplace and effective systems to respond to the hazards;

(b) receive, investigate and promptly deal with issues respecting occupational health and safety, other than a complaint of workplace harassment;

(c) participate in inspections, inquiries and investigations respecting the occupational health and safety of workers in the workplace, other than an investigation of a complaint of workplace harassment;

(d) advise the employer on individual protective equipment, devices and safety features that are best suited to the needs of the workers, within the provisions of this Act and the regulations;

(e) advise the employer regarding a policy or program required by this Act; and

(f) make recommendations to the employer, the workers and any other persons for the improvement of the occupational health and safety of persons at the workplace. *2004,c.42,s.26; 2018,c.45,s.7.*

INFORMATION RESPONSIBILITIES

27. Employer's response

(1) Subject to clause (2)(c), an employer who receives written recommendations from a committee or a representative, if any, under clauses 25(7)(f) and 26(6)(f) together with a request for a response to the recommendations, shall respond in writing to the committee or representative within 30 days of the request.

Content of response

(2) The employer's response referred to in subsection (1) shall

(a) indicate acceptance of the recommendations;

(b) give reasons for the disagreement with recommendations that the employer does not accept; or

(c) where it is not reasonably practicable to provide a response before the expiry of the 30-day period, provide within that time a reasonable explanation for the delay indicating to the committee or a representative, if any, when the response will be coming, and provide the response as soon as it is available.

Report to officer

(3) If the committee or a representative, if any, considers that the explanation provided by the employer under clause (2)(c) is unacceptable or unreasonable, the committee or representative shall promptly report that fact to an officer.

Report to committee

(4) An employer shall notify the committee or representative of the existence of reports of occupational health and safety inspections, monitoring or tests undertaken at the workplace by, or at the request of, an officer or the employer and the employer shall make the reports available on request to the committee or the representative.

Report to worker

(5) An employer shall, on the request of a worker at the workplace, make available to the worker reports of occupational health or safety inspections, monitoring or tests undertaken at the workplace by, or at the request of, an officer or the employer.

Inspection reports, etc.

(6) An officer shall provide the employer at a workplace with reports of inspections, monitoring and tests undertaken at the workplace by, or at the request of, an officer.

Posting

(7) An employer shall

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

(b) promptly post the minutes of the most recent committee meeting and ensure that they remain posted until superseded by the minutes of the next committee meeting.

Duties of employers

(8) An employer shall

(a) make available for examination at the workplace information and reports that an officer considers advisable to enable workers to know their rights and responsibilities under this Act and the regulations; and

(b) post, and ensure that they remain posted in the workplace,

(i) a code of practice required under this Act or the regulations,

(ii) a current telephone number for reporting occupational health or safety concerns, and

(iii) the occupational health and safety policy where the employer is required by this Act to have a policy.

Posting

(9) Where anything other than the information referred to in subsection (8) is required to be posted by this Act or the regulations, the person who has the duty to post it shall

(a) post a legible copy of it in a prominent place in the workplace; and

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

Provide to each worker

(10) Notwithstanding subsection (9), a person who is required to post anything required to be posted under subsection (9) may, alternatively, provide that information to each worker in writing. *2004,c.42,s.27.*

REFUSAL TO WORK

28. Right to refuse work

(1) A worker may refuse to do an act at the worker's workplace where the worker has reasonable grounds for believing that the act is likely to endanger the worker's occupational health or safety or the occupational health and safety of another worker.

Report to and investigation by supervisor

(2) A worker who has reason to believe that an act is likely to endanger the worker's occupational health and safety or the occupational health or safety of another worker shall immediately report the concern to the worker's supervisor, who shall promptly investigate the situation in the presence of the worker.

Remedial action

(3) Where a supervisor finds that the worker has reasonable grounds for believing that an act is likely to endanger the worker's occupational health or safety or the occupational health or safety of another worker, the supervisor shall take appropriate remedial action or recommend appropriate remedial action to the employer.

Refusal found groundless

(4) Where a supervisor finds the worker does not have reasonable grounds for believing that an act is likely to endanger the worker's occupational health or safety or the occupational health or safety of another worker, the supervisor shall advise the worker to do that act.

Referral to committee or representative

(5) Where a worker has made a report under subsection (2) and the matter has not been resolved to the worker's satisfaction, the worker shall refer the matter to a committee or representative or, where there is no committee or representative, to an officer.

Investigation by committee, representative

(6) On receipt of a referral under subsection (5), the committee, representative or officer shall promptly investigate the situation.

Remedial action

(7) Where a committee or representative finds that the worker has reasonable grounds for believing that an act is likely to endanger the worker's occupational health or safety or the occupational health or safety of another worker, the committee or representative shall recommend appropriate remedial action to the employer.

Advised to do act

(8) Where a committee or representative finds that the worker does not have reasonable grounds for believing that an act is likely to endanger the worker's occupational health or safety or the occupational health or safety of another worker, the committee or representative shall advise the worker to do that act.

Referral to officer

(9) Where a matter has been referred to a committee or representative under subsection (5), and the matter is not resolved to the satisfaction of the worker, the worker may refer the matter to an officer.

Investigation by officer

(10) On receipt of a referral under subsection (5) or (9), an officer shall promptly investigate the situation and make the officer's findings known in writing, as soon as is practicable, to the employer, the worker and the committee or representative, if any, as to whether the worker has reasonable grounds for believing that an act is likely to endanger the worker's occupational health or safety or the occupational health or safety of another worker.

Order for remedial action

(11) Where, on a referral under subsection (5) or (9), an officer finds that a worker has reasonable grounds for believing that an act is likely to endanger the worker's occupational health or safety or the occupational health or safety of another worker, the officer shall order remedial action to be taken by the employer.

Refusal found groundless by officer

(12) Where, on a referral under subsection (5) or (9), an officer finds that a worker does not have reasonable grounds for believing that an act is likely to endanger the worker's occupational health or safety or the occupational health or safety of another worker, the officer shall advise the worker to do that act.

Attendance at workplace

(13) Pending an investigation under this section, the worker shall remain available at the workplace during the worker's normal working hours. *2004,c.42,s.28.*

29. Protection of worker's right of refusal

(1) A worker's right under subsection 28(1) to refuse to do an act is protected

(a) if the worker has reported the concern to the worker's supervisor under subsection 28(2),

(i) until remedial action recommended by the supervisor under subsection 28(3) is taken by the supervisor or employer to the worker's satisfaction, or

(ii) until the supervisor has advised the worker under subsection 28(4) to do that act;

(b) if the worker has referred the matter to a committee or representative under subsection 28(5),

(i) until remedial action recommended by the committee or representative under subsection 28(7) is taken by the employer to the worker's satisfaction, or

(ii) until the committee or representative has advised the worker under subsection 28(8) to do that act; and

(c) if the worker has referred the matter to an officer under section 28(5),

(i) until remedial action ordered by the officer under subsection 28(11) is taken by the employer to the officer's satisfaction, or

(ii) until the officer has advised the worker under subsection 28(12) to do that act.

Duty to advise other workers

(2) Where a worker has refused to do an act at the worker's workplace under subsection 28(1), the employer shall not assign another worker to perform that act unless that other worker has been advised by the employer of the refusal and the reasons therefor and of the worker's rights under this Act.

Assignment to other work without loss of wages

(3) Subject to subsection (4), where a worker has refused to do an act under subsection 28(1) and the worker's right to refuse is protected under subsection (1), the worker's employer may reassign the worker temporarily to perform other acts or to perform other work that is reasonably equivalent to the acts or work the worker normally performs and the employer shall pay the worker the same wages and grant the worker the same benefits as the worker would have received if he or she had not refused to do the act.

Collective agreement applies

(4) Where a collective agreement is in force, a reassignment referred to in subsection (3) shall be made in accordance with the collective agreement.

Wages and benefits not affected if refusal upheld

(5) Where a worker has reasonably refused to do an act under subsection 28(1), the worker's right to refuse is protected under subsection (1) and the worker has not been reassigned to perform other acts or to perform other work under subsection (3), the employer shall pay the worker the same wages and grant the worker the same benefits as the worker would have received if he or she had not refused to do the act, if the worker's refusal is upheld.

Frivolous refusal

(6) Where it is determined that the worker's refusal was for frivolous reasons, the worker shall not be entitled to wages and benefits for the applicable time period. *2004,c.42,s.29.*

30. Discriminatory action

(1) No employer or union shall

(a) take discriminatory action against a worker;

(b) threaten to take discriminatory action against a worker;

(c) except as provided in subsection 29(6), impose a penalty on a worker; or

(d) intimidate or coerce a worker

because the worker has sought the enforcement of this Act, the regulations or an order made in accordance with this Act or the regulations, or has acted in compliance with this Act, the regulations or an order made in accordance with this Act or the regulations.

Reassignment

(2) A reassignment under subsection 29(3) is not discriminatory action under this section. *2004,c.42,s.30.*

31. Settlement by arbitration

(1) Where a worker complains that an employer or a union has violated section 30, the worker may have the matter dealt with either by final and binding settlement by arbitration under a collective agreement, if any, or by filing a complaint in writing with the Board.

Referral to arbitrator by Board

(2) On receipt of a complaint referred to in subsection (1), the Board shall, having satisfied itself that all required steps to resolve the complaint have been exhausted, refer the complaint to an arbitrator whom the Board shall appoint.

Powers

(3) An arbitrator has all the powers of an arbitrator under the *Labour Act* R.S.P.E.I. 1988, Cap. L-1.

Orders

(4) Where an arbitrator finds that the action of an employer or a union contravened subsection 30(1), the arbitrator shall make an order in writing that may include

(a) an order to the employer or union to cease the discriminatory action;

(b) an order to an employer to reinstate the worker to the worker's former employment under the same terms and conditions on which the worker was formerly employed;

(c) an order to the employer to pay to the worker any wages the worker lost because the worker was wrongfully discriminated against; or

(d) an order to the employer or union that a reprimand or other reference to the matter in the employer's or union's records on the worker's conduct be removed.

Copies of order

(5) The arbitrator shall provide a copy of the order and his or her reasons to the Board, to the employer or union and to the worker.

Order filed in Supreme Court

(6) Where

(a) an arbitrator has made an order respecting a party; and

(b) the party has failed to comply with the order,

a person affected by the order may, 14 days after the date of the order or after the date required in the order for compliance with it, whichever is later, file the order with the Registrar of the Supreme Court.

Order enforced as judgment

(7) An order filed under subsection (6) shall be entered in the records of the Supreme Court in the same way as a judgment filed under the *Judgment and Execution Act* R.S.P.E.I. 1988, Cap. J-2, and the order is enforceable as a judgment under that Act. *2004,c.42,s.31.*

TOXIC SUBSTANCES

32. Chemicals, etc. to be listed

(1) An employer at a workplace shall prepare a list of all biological, chemical or physical agents used, handled, produced or otherwise present at the workplace that may be hazardous to the occupational health or safety of workers or are suspected by the workers of being hazardous and the list shall identify all such agents by their common or generic names, where they are known to the employer.

Content of record

(2) For every biological, chemical or physical agent required to be listed under subsection (1), the employer shall take all reasonable steps to ascertain from suppliers or otherwise and to record the following information on every agent:

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

(b) the composition and the properties;

(c) the toxicological effects;

(d) the effects of exposure, whether by contact, inhalation or ingestion;

(e) the protective measures used or to be used in respect of the agent;

(f) the emergency measures used or to be used to deal with exposure to the agent;

(g) the information on the use, transport, storage and disposal of the agent.

Copies

(3) The employer shall ensure that the list referred to in subsection (2) is kept current and the employer shall provide a copy of the current list

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

(b) on request, to an officer or a worker.

Trade name supplied to officer

(4) Where the employer is unable to ascertain the ingredients or composition of a biological, chemical or physical agent listed in this section, the employer shall promptly provide the officer with the trade name, and the name and address of the manufacturer of the agent. *2004,c.42,s.32.*

MEDICAL EXAMINATION

33. Occupational disease, examination

(1) The Director may arrange, with the consent of the worker, to have the worker medically examined by a medical practitioner to determine whether the worker is suffering from an occupational disease.

Alteration of status

(2) No employer shall, without the consent of the worker, alter in any manner or prejudicially affect the status of a worker by reason of the results of a medical examination carried out under this section.

Cost of examination

(3) A medical examination carried out under subsection (1) shall, where practicable, be carried out during the normal working hours of the worker, and the cost shall in all cases be paid by the employer.

No deductions from wages

(4) Where a worker is examined during the worker's normal working hours, the employer shall not make deductions from wages or other benefits for the time lost by the worker in going to, attending or returning from, a medical examination.

Medical reports

(5) Where a medical practitioner

(a) has attended a worker who became ill while engaged in the worker's employment; or

(b) has performed a medical examination under subsection (1),

the medical practitioner shall, at the request of the Director, provide the Director with such medical reports as the Director requires in relation to the worker attended or examined. *2004,c.42,s.33.*

MISCELLANEOUS

34. Code of practice

(1) For the purpose of providing practical guidance for the carrying out of the requirements of any provision of this Act or the regulations, the Director may, after consultation with interested persons or associations that the Director considers advisable to consult,

(a) issue a code of practice; or

(b) amend or repeal a code of practice issued under clause (a).

Publication

(2) Where a code of practice is issued, amended or repealed under this section, the Director shall publish a notice in the Gazette identifying the code of practice, specifying the provisions of this Act or the regulations to which it relates and stating the effective date of the code of practice, amendment or repeal.

Not offence

(3) The failure by a person to observe a provision of a code of practice is not of itself an offence.

Admissible as evidence

(4) Where a person is charged with a breach of this Act or the regulations with respect to which the Director has issued a code of practice, the code of practice is admissible as evidence in a prosecution for the violation of this Act or the regulations.

Idem

(5) A copy of a code of practice or an amendment to a code of practice that is certified to be a true copy by the Director shall be received in evidence in any court without proof of the signature, appointment or authority of the Director. *2004,c.42,s.34.*

35. Exemption

(1) To meet the special circumstances in a particular case, the Director may, on receipt of a written application and after consultation with interested persons or associations that the Director considers advisable to consult, exempt conditionally or otherwise a person or class of persons from any provision of the regulations or a code of practice.

Idem

(2) An exemption under subsection (1) may be made only where the Director is satisfied that the standard of occupational health and safety of a worker is not materially affected by the exemption. *2004,c.42,s.35.*

36. Reporting of accidents

(1) Where an accident occurs in the workplace in which a worker is seriously injured in a manner which causes or may cause a fatality, suffers a loss of limb, unconsciousness, substantial loss of blood, a fracture, an amputation of a leg, arm, hand, or foot, a burn to a major portion of the body, or the loss of sight in an eye, the employer shall ensure that written notice is sent, by the fastest means available, to the Director within 24 hours of the accident.

Notify committee

(2) Where an accident is reported under subsection (1), the employer shall notify the committee, where one exists, or the representative, if any.

Accident scene

(3) Except as otherwise directed by an officer, no person shall disturb the scene of an accident that results in a serious injury or a fatality except to the extent that it is necessary

(a) to attend to persons injured or killed;

(b) to prevent further injuries; or

(c) to protect property that is endangered as a result of the accident. *2004,c.42,s.36.*

37. Accidental explosions

An employer shall, whether or not a person has been injured, provide the Director with a written report of all accidental explosions. *2004,c.42,s.37.*

38. Board of inquiry

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

(a) any matter concerning the occupational health and safety of workers employed,

(i) at a particular workplace,

(ii) by a particular employer or group of employers, or

(iii) in an industry; or

(b) the circumstances surrounding, and the causes of, an accident.

Powers

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

Recommended remedial action

(3) A board of inquiry may include in its report recommendations to the Board with respect to remedial action. *2004,c.42,s.38.*

39. Confidentiality

(1) Except for the purposes of this Act and the regulations, for the purposes of administering any other legislation that is administered by the Board, or as required by law,

(a) an officer, a person accompanying an officer, or a person who, at the request of an officer, makes an examination, inquiry or a test, shall not publish, disclose or communicate to another person any information, material, statement, report or result of an examination, inquiry or a test acquired, provided, obtained, made or received under the powers conferred under this Act or the regulations;

(b) no person shall publish, disclose or communicate to another person a manufacturing secret or trade secret acquired, provided, obtained, made or received under this Act or the regulations;

(c) no person to whom information is communicated under this Act, or the regulations shall divulge the name of the informant to any person; and

(d) no person shall disclose information obtained in a medical examination, test or X-ray of a worker made or taken under this Act except in a form calculated to prevent the information from being identified with a particular person or case.

Persons not compellable witnesses

(2) An officer or a person who, at the request of an officer, accompanies an officer, or a person who makes an examination, inquiry or a test or takes samples at the request of an officer, is not a compellable witness in a civil suit or any proceeding, except before a board of inquiry set up under this Act or an inquest under the *Coroners Act* R.S.P.E.I. 1988, Cap. C-25.1 respecting the examination, inquiry, test or sample acquired, provided, obtained, made or received under this Act or the regulations. *2004,c.42,s.39; 2006,c.36,s.1; 2006,c.29,s.60.*

40. Copies of reports

The Director may, on receipt of a request in writing from the owner of a workplace who has entered into an agreement to sell the workplace, and on payment of the fee prescribed, provide to the purchaser or a person designated by the purchaser under an agreement of sale, copies of reports or orders of an officer made under this Act. *2004,c.42,s.40.*

41. Liability

No action or other proceeding for damages lies or shall be instituted against the Board, the Minister, the Director or an officer or worker of the Board, for any act or omission done or

omitted to be done in good faith in the exercise or the intended exercise of a function under this Act or the regulations. *2004,c.42,s.41.*

42. Obstruction of officers, etc.

No person shall

(a) hinder, obstruct or interfere with or attempt to hinder, obstruct or interfere with an officer in the exercise of his or her functions under this Act or the regulations;

(b) knowingly provide an officer with false information, or neglect or refuse to provide information required by an officer in the exercise of his or her functions under this Act or the regulations;

(c) interfere with monitoring equipment or devices in a workplace;

(d) knowingly

(i) hinder or interfere with a committee, committee member or representative in the exercise of functions under this Act,

(ii) provide a committee, committee member or representative with false information in the exercise of functions under this Act, or

(iii) hinder or interfere with a worker selected by the workers to represent them in the exercise of functions under this Act. *2004,c.42,s.42.*

43. Offences and penalties

(1) A person who contravenes or violates

(a) a provision of this Act or the regulations; or

(b) an order or requirement of an officer or the Director,

is guilty of an offence and is liable on summary conviction to a fine of not more than $250,000 or to imprisonment for one month, or to both.

Continuing offences

(2) In addition to a fine imposed under subsection (1), the court may impose a fine not exceeding $5,000 for each day during which the offence continues.

Corporate officers

(3) Where a corporation contravenes or violates

(a) a provision of this Act or the regulations; or

(b) an order or requirement of an officer or the Director,

any officer, director, manager or agent of the corporation who directed, authorized, assented to, acquiesced or participated in the contravention or violation is guilty of an offence and is liable on summary conviction to the penalties set out in subsections (1) and (2). *2004,c.42,s.43; 2006,c.36,s.2.*

43.1 Limitation period

A prosecution for an offence under this Act shall be commenced within two years of

(a) the date upon which the offence is alleged to have been committed; or

(b) the date upon which an officer becomes aware of the alleged offence,

whichever is later. *2013,c.44,s.1.*

44. Additional penalties

(1) Subject to subsection (2), where a person is convicted of an offence under this Act or the regulations, in addition to any other penalty that may be imposed by a court under this Act or the regulations, 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 the facts relating to the offence;

(b) directing the offender to pay to the Board an amount to be used by the Board for public education regarding

(i) safe conduct of the activity related to the offence that was committed, and

(ii) principles of responsibility for safe working conditions provided for in this Act;

(c) directing the offender to submit to the Director such information respecting the activities of the offender as the court considers appropriate;

(d) directing the offender to perform community service, on the terms and conditions stated in the order;

(e) directing payment by the offender of such security for the performance of the order as the court considers appropriate; and

(f) imposing such other conditions on the offender as the court considers appropriate.

Maximum amount

(2) The total of money payable under subsection (1) shall not exceed the maximum amount payable under section 43.

Director may publish

(3) Where an offender fails to comply with an order made under clause (1)(a), the Director may publish the facts in accordance with the order.

Debts to the Board

(4) The following amounts constitute debts owing by the offender to the Board and may be recovered in the Supreme Court:

(a) an amount payable by the offender under clause (1)(b);

(b) the costs of publication by the Director under subsection (3). *2004,c.42,s.44.*

45. Posting written materials

An owner, employer or a constructor shall keep in a prominent place accessible to the workers

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

(b) such notices and reports as are required by this Act and the regulations to be posted. *2004,c.42,s.45.*

REGULATIONS

46. Regulations

(1) Subject to the approval of the Lieutenant Governor in Council, the Board may make regulations

(a) setting out the occupational health and safety standards to be established at workplaces or classes of workplaces;

(b) respecting the presence of persons other than workers at a workplace;

(c) establishing conditions as to the design, construction and use of a plant or undertaking to protect the occupational health and safety of workers;

(d) prohibiting or controlling the manufacture, supply or use of plant equipment or machinery;

(e) prohibiting or controlling the manufacture, supply, storage, handling or use of a substance or material to protect the occupational health and safety of workers;

(f) imposing requirements with respect to the testing, labelling or examination of a substance or material that may affect the occupational health and safety of workers;

(g) controlling or prohibiting the employment in specified circumstances of a person or class of persons where it is necessary to protect their occupational health and safety;

(h) excluding a workplace, a worker or a class of worker from the application of section 28;

(i) restricting the performance of certain tasks to persons having certain qualifications;

(j) requiring the making of arrangements by employers for the prevention of occupational disease and for securing the occupational health of workers, including the making of arrangements for medical examinations and health surveys;

(j.1) respecting measures that employers shall establish and implement to prevent and investigate harassment in the workplace;

(k) requiring the making of arrangements by employers for monitoring the atmospheric or other conditions of workplaces;

(l) respecting standards for the design, construction, operation, maintenance and safety features of any item, device, material, equipment or machinery used at a workplace;

(m) prohibiting the use of any item, device, material, equipment or machinery used at a workplace that does not meet the prescribed standards;

(n) requiring employers to provide, and workers to use, any safety device, item, material, equipment or machinery used at a workplace;

(o) providing for the prohibition of the sale, rental or lease of any device, equipment, item, machinery or material used at a workplace that does not meet the required standards;

(p) requiring and governing medical facilities or first aid facilities to be located at workplaces;

(q) requiring the use of protective equipment or devices by workers or classes of workers;

(r) respecting the fees payable by employers for inspections required by this Act;

(s) respecting forms for use under this Act;

(t) respecting records to be kept by employers;

(u) giving the Board, for the purposes of conducting inspections, examinations, inquiries or tests under this Act, the authority to contract for qualified services and to provide remuneration for those services;

(v) respecting confidentiality protection for trade secrets;

(w) respecting procedures with respect to disclosure of information which is considered a trade secret;

(x) exempting certain workplaces from the application of this Act or the regulations;

(y) respecting any notices or reports an owner, employer, or constructor is required to post;

(z) respecting training for committee members and representatives;

(aa) ensuring employers permit committee members and representatives to take time off to receive such training as is prescribed by regulation;

(bb) respecting the fee payable by the owner of a workplace who has entered into an agreement to sell the workplace;

(bb.1) defining terms used but not defined in this Act;

(cc) generally for carrying out the purposes of this Act.

Adoption of codes

(2) A regulation made under subsection (1) may adopt by reference in whole or in part, as amended from time to time and with such changes as the Board considers necessary, any code or standard, or any regulation made by any other government in Canada or recognized technical organization, and may require compliance with any code, standard or regulation so adopted. *2004,c.42,s.46; 2015,c.37,s.3; 2018,c.45,s.8.*

TRANSITIONAL

47. Transitional provisions

Notwithstanding the repeal of the former Act, on the coming into force of this Act,

(a) the person whose appointment as the Director of Occupational Health and Safety under subsection 5(3) of the former Act is in effect is deemed to have been appointed as the Director of Occupational Health and Safety under subsection 5(1) of this Act;

(b) a person whose appointment as an occupational health and safety officer or employee under subsection 5(3) of the former Act is in effect is deemed to be appointed respectively as an occupational health and safety officer or worker under subsection 5(2) of this Act;

(c) an order made by an officer under subsection 8(1) or (4) of the former Act is deemed to have been made under subsection 8(1) or (4) of this Act;

(d) an appeal to the Director under subsection 11(1) of the former Act that has been commenced but not concluded is deemed to have been commenced under subsection 10(1) of this Act;

(e) an order made by the Director under subsection 11(4) of the former Act is deemed to have been made under subsection 10(5) of this Act;

(f) an appeal under subsection 12(1) of the former Act that has been commenced but not concluded is deemed to have been made under subsection 11(1) of this Act;

(g) a decision made under subsection 12(5) of the former Act is deemed to have been made under subsection 11(5) of this Act;

(h) a person whose appointment as a member of the Occupational Health and Safety Advisory Council under subsection 19.4(3) of the former Act that is in effect is deemed to have been appointed as a member of the Occupational Health and Safety Advisory Council under subsection 22(2) of this Act;

(i) a policy prepared under subsection 19.5(1) of the former Act is deemed to have been prepared under subsection 24(1) of this Act;

(j) a program prepared under subsection 19.6(1) of the former Act is deemed to have been prepared under subsection 23(1) of this Act;

(k) a person appointed as a committee member under subsection 19.7(1) or (2) of the former Act is deemed to have been appointed as a committee member under subsection 25(1) or (2) of this Act;

(l) a person appointed as a representative under subsection 19.8(1) or (2) of the former Act is deemed to have been appointed as a representative under subsection 26(1) or (2) of this Act; and

(m) a list prepared under subsection 24(1) of the former Act is deemed to have been prepared under subsection 32(1) of this Act. *2004,c.42,s.47.*

Faits importants sur la *Employment Standards Act*
(loi sur les normes d'emplois) de l'Île-du-Prince-Édouard

À l'Île-du-Prince-Édouard, la plupart des employés sont assujettis à la *Employment Standards Act* et à son règlement. Ceux-ci établissent les normes minimales qui doivent être respectées dans les lieux de travail de la province.

Vos droits et vos responsabilités au travail

Salaire minimum : On doit accorder au moins le salaire minimum à la plupart des employés. Pour connaître le taux actuel, veuillez visiter www.peiemploymentstandards.com ou communiquer avec la Direction des normes d'emploi au 902-368-5550 ou au numéro sans frais 1-800-333-4362.

Heures de travail : La plupart des employés qui travaillent plus de 48 heures dans une semaine donnée doivent être payés pour les heures supplémentaires. Les employés de certaines industries doivent travailler plus de 48 heures dans une semaine donnée avant d'être rémunérés pour ces heures supplémentaires. Veuillez communiquer avec la Direction des normes d'emploi pour plus d'information.

Paiement des heures supplémentaires : Le taux de rémunération pour chaque heure supplémentaire travaillée doit équivaloir à au moins 1,5 fois le taux de salaire normal de l'employé.

Accumulation des heures supplémentaires : Avec l'approbation de l'employeur, un employé peut choisir d'accumuler ses heures supplémentaires et prendre un congé payé. Toute entente doit être conclue par écrit. L'employé doit alors recevoir 1,5 heure de congé payé pour chaque heure supplémentaire accumulée. Veuillez communiquer avec la Direction des normes d'emploi pour plus d'information.

Période de paie : La période de paie d'un employé ne peut pas dépasser 16 jours. La journée de paie doit être dans les cinq jours suivant la fin de cette période de paie.

Talon de paie : Les employés doivent recevoir une fiche de paie avec leur paie. Les employés qui reçoivent un relevé électronique doivent y avoir accès au travail pour pouvoir le voir de façon confidentielle et en faire une copie papier.

Indemnité de présence : Chaque fois qu'un employé est tenu de se présenter au travail, il doit être payé pour au moins trois heures à son taux de paie normal.

Périodes de repos : La plupart des employés ont droit à :

- une pause quotidienne non payée d'au moins une demi-heure pour chaque cinq heures de travail continu; et
- une pause hebdomadaire non payée d'au moins 24 heures consécutives dans chaque semaine de sept jours.

Vacances payées : La plupart des employés ont droit à des vacances annuelles payées de deux semaines pour chaque année de travail et par la suite trois semaines par année après que l'employé a travaillé huit années consécutives pour le même employeur. Les employés à temps partiel qui ont travaillé pendant une période continue d'un an peuvent choisir de recevoir une paie de vacances au lieu d'obtenir du temps de vacances, après en avoir informé l'employeur par écrit.

Jours fériés payés : jour de l'An, fête des Insulaires, Vendredi saint, fête du Canada, fête du Travail, jour du Souvenir et Noël.

Pourboires : Les pourboires et les gratifications appartiennent à l'employé et ne peuvent être partagés avec l'employeur.

Congés spéciaux : La plupart des employés ont droit à dix congés sans risque de perte d'emploi:

- congé de décès : une journée payée et jusqu'à deux jours sans solde lors du décès d'un membre de la famille immédiate; jusqu'à trois jours sans solde lors du décès d'un membre de la famille élargie;
- congé de maladie : jusqu'à trois jours de congé sans solde chaque année civile pour les employés ayant plus de trois mois, mais moins de cinq ans d'emploi continu avec le même employeur; une journée de congé de maladie payée et jusqu'à trois jours de congé sans solde chaque année civile pour les employés ayant plus de cinq ans d'emploi continu avec le même employeur;
- congé pour obligations familiales : trois jours sans solde chaque année civile après six mois d'emploi continu avec le même employeur;
- congé de maternité/paternité/adoption : congé sans solde pour une durée maximale de 78 semaines si l'employé a été à l'emploi du même employeur pendant au moins 20 des 52 semaines précédant le début du congé et s'il est actuellement employé par le même employeur;
- Congé en cas de maladie grave d'un enfant : congé non payé d'un maximum de 37 semaines au cours d'une période de 52 semaines accordé à un employé pour qu'il puisse fournir des soins et du soutien à un enfant gravement malade; l'employé doit avoir été un employé pendant une période continue d'au moins trois mois et être le parent de l'enfant.
- Congé en cas de décès ou de disparition d'un enfant dans des circonstances criminelles : congé non payé d'un maximum de 52 semaines en cas de la disparition de l'enfant d'un employé étant le résultat probable d'un crime; et d'un maximum de 104 semaines en cas de la mort de l'enfant d'un employé étant le résultat probable d'un crime; l'employé doit avoir été un employé pendant une période continue d'au moins trois mois et être le parent de l'enfant.
- congé pour fonctions judiciaires : congé sans solde pour remplir les fonctions de juré;
- congé de soignant : maximum de 28 semaines sans solde pour donner des soins ou du soutien à une personne considérée membre de la famille;
- congé à l'intention des réservistes : congé sans solde pour un employé qui doit s'absenter de son travail de civil pour le service militaire; il doit avoir travaillé au moins six mois pour le même employeur.
- effective á partir du 1 novembre 2019, congé en cas de violence familiale / violence conjugale / violence sexuelle — trois jours de congé payé et sept jours de congé non payé par année civile après trois mois de service continu chez le même employeur.

Avis de cessation : Les employeurs qui mettent fin à l'emploi d'un employé sans motif valable doivent donner à l'employé un avis écrit ou une rémunération compensatrice, comme suit :

- pour moins de six mois d'emploi continu – aucun avis nécessaire;
- de six mois à cinq ans d'emploi continu – deux semaines;
- de cinq à dix ans d'emploi continu – quatre semaines;
- de dix à quinze ans d'emploi continu – six semaines;
- plus de quinze ans d'emploi continu – huit semaines.

Les employés qui démissionnent après avoir accumulé entre six mois et cinq ans de service doivent donner au moins une semaine d'avis par écrit à l'employeur et après cinq ans de service continu, deux semaines d'avis par écrit. Un employé qui démissionne dans les six premiers mois de service continu n'est pas tenu de donner un préavis.

Retenues à la source : La paie d'un employé n'est assujettie qu'aux déductions autorisées. Veuillez communiquer avec la Direction pour plus d'information.

Emploi des jeunes : Il y a des règlements spécifiques aux employés de moins de 16 ans. Veuillez communiquer avec la Direction pour plus d'information.

Autres dispositions : les règlements d'emploi ne paraissent pas sur cette affiche. Pour obtenir plus d'information, un formulaire de plainte ou le *Guide to Employment Standards*, prière de communiquer avec la Direction des normes d'emploi par téléphone (902- 368-5550 ou sans frais 1-800-333-4362) ou par télécopieur (902-368-5476) ou encore de consulter le www.peiemploymentstandards.com.

Cette affiche n'est qu'un guide. Il est fortement recommandé de consulter l'*Employment Standards Act* et ses règlements ou la *Youth Employment Act* (loi sur l'emploi des jeunes). S'il existe des différences entre la présente affiche et la loi, c'est le texte de la loi qui prévaut.

19CU32-52055

Île-du-Prince-Édouard
CANADA

Lo que debe saber sobre la Ley Laboral y su reglamento en la Isla del Príncipe Eduardo (PEI)

La mayoría de los empleados en la Isla del Príncipe Eduardo, se rigen por la Ley Laboral y por los Reglamentos que establecen estándares mínimos en el área laboral dentro de la Isla.

Sus Derechos y Responsabilidades en el Trabajo

Salario Mínimo: a la mayoría de los empleados, debe pagárseles por lo menos el salario básico. Para más información, contacte la Agencia de Estándares Laborables al numero (902) 368-5550 o al 1-800-333-4362 sin costo alguno o visite la pagina web www.peiemploymentstandards.com

Horas de Trabajo: la mayoría de los empleados, deben ser pagados horas extras después de trabajar más de 48 horas en una semana determinada. Los empleados en ciertas industrias deben trabajar más de 48 horas en una semana determinada antes de tener derecho al pago de horas extras. Para mayor informacion, comuníquese con nuestra oficina.

Pago de horas extras: la tarifa debe ser al menos 1.5 veces la tarifa de pago regular del empleado por cada hora de horas extras trabajadas.

“Acumulación” de Horas Extras: Un empleado puede optar por acumular horas extraordinarias como tiempo libre remunerado si el empleador está de acuerdo. El acuerdo debe ser por escrito. Un empleado debe recibir 1.5 horas de tiempo libre remunerado por cada hora extra acumulada. Para mayor informacion, comuníquese con nuestra oficina.

Período de pago: el período de pago a un empleado no debe exceder los 16 días. El día de pago no podrá ser posterior a cinco días laborables a partir del cierre de ese período de pago.

Talón de Pago: los empleados deben recibir una copia del rol de pago junto con su salario. Los empleados que reciben una declaración electrónica de pago, deben tener acceso seguro en el lugar de trabajo para ver su estado y un medio necesario para realizar una copia impresa.

Declaración de Pago: cada vez que se requiere que un empleado se presente a trabajar, o a alguna actividad relacionada con el trabajo, el empleado deberá ser pagado por lo menos tres horas de su remuneración ordinaria.

Períodos de descanso: la mayoría de los empleados tienen derecho a:

- un descanso diario no remunerado de al menos media hora después de cada cinco horas continuas de trabajo; Y
- un descanso semanal no remunerado de al menos 24 horas consecutivas en cada semana de siete días.

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Vacaciones Pagadas: La mayoría de los empleados tienen derecho a vacaciones anuales remuneradas de dos semanas después de cada año de trabajo y tres semanas de vacaciones anuales pagadas después de que el empleado haya completado ocho años de trabajo continuos para el mismo empleador. Los empleados a tiempo parcial que han trabajado durante un período continuo de un año, pueden decidir recibir pago por sus vacaciones en lugar de tiempo de vacaciones después de notificar al empleador por escrito.

Vacaciones Pagadas (Estatutorias): Día de Año Nuevo, Día de los Isleños, Viernes Santo, Día de Canadá, Día del Trabajo, Día del Recuerdo y Día de Navidad.

Propinas: las propinas y gratificaciones son propiedad de un empleado y no pueden ser compartidas con el empleador.

Permisos Especiales: la mayoría de los empleados tienen derecho a diez (10) licencias laborales protejidas por codigo de trabajo.

- Licencia por duelo: un día remunerado y hasta dos días sin remuneracion por la muerte de un familiar inmediato y hasta tres días sin remuneracion por la muerte de un miembro de familia extendida;
- Licencia por enfermedad: hasta tres días sin remuneracion por cada año civil para los empleados con más de seis meses, pero menos de cinco años de empleo continuo con el mismo empleador. Un día de licencia remunerada por enfermedad y hasta tres días de licencia no remunerada por cada año civil para los empleados con más de cinco años de empleo continuo con el mismo empleador;
- Licencia familiar: tres días sin remuneracion por cada año civil después de seis meses de empleo continuo con el mismo empleador;
- Permiso de Maternidad/Paternidad/Adopción: permiso no remunerado de hasta 78 semanas. Elegible si es empleado del mismo empleador en cualquiera de las 20 semanas de las 52 semanas anteriores al inicio de la licencia y si actualmente está empleado por el mismo empleador;
- Licencia por enfermedad grave de un hijo/a: todo empleado tiene derecho de hasta 37 semanas de licencia sin remuneración dentro de las 52 semanas del año calendario, para proveer cuidados y soporte a un hijo/a que se encuentre en estado critico de salud; para obtener este beneficio, el empleado debe haber trabajado como mínimo tres meses consecutivos para el mismo empleador y ser el padre o madre del niño/a
- Licencia por ausentismo relacionado con un crimen o por muerte de un hijo/a: todo empleado tiene derecho de hasta 52 semanas de licencia sin remuneración por motivo de la desaparición de un hijo/a como resultado probable de un crimen; y hasta 104 semanas si el hijo/a del empleado muere como resultado probable de un crimen. Este beneficio se podrá obtener, si el empleado ha trabajado para el mismo empleador mínimo tres (3) meses consecutivos y es el padre o la madre del niño/a
- Licencia tribunal: licencia sin remuneracion para servir de Jurado en la Corte;
- Permiso de atención médica compasiva: 28 semanas no remuneradas en un período de 26 semanas para cuidar a alguien que sea considerado como miembro familiar;
- Licencias para casos de Abuso sexual/de pareja intima/de violencia domestica: a partir del primero (1) de Noviembre del 2019, se hace efectivo que: todo empleado tiene derecho a una licencia de tres (3) días con remuneración y 7 (siete) días sin remuneración por año calendario en caso de sufrir por cualquiera de los abusos arriba mencionados; Este beneficio se obtendrá después de haber trabajado para el mismo empleador por lo menos tres meses consecutivos.
- Licencia de reservista: licencia no remunerada para un empleado que debe ausentarse del empleo civil para prestar servicios militares; para obtener este beneficio, el empleado debe haber trabajado por lo menos seis meses consecutivos para el mismo empleador.

Notificación de rescisión: los empleadores que rescinden (despedir) a un empleado sin causa justificada, deben entregarle una notificación por escrito al empleado o pagar en lugar de la notificación por escrito:

- menos de 6 meses de empleo continuo – no se requiere notificacion;
- 6 meses a 5 años de empleo continuo – notificacion de dos semanas;
- 5 años a 10 años de empleo continuo – notificacion de cuatro semanas;
- 10 a 15 años de empleo continuo – notificacion de seis semanas;
- más de 15 años de empleo continuo – notificacion de ocho semanas

Los empleados que renuncien a sus trabajos entre seis meses y cinco años de empleo continuo para el mismo empleador deben proporcionar una notificación por escrito al empleador una semana antes, y después de cinco años de empleo continuo, deben proporcionar dos semanas de notificación por escrito. Un empleado que renuncia dentro de los seis meses de servicio continuo no está obligado a presentar notificación.

Deducciones de Pago: el salario de un empleado está sujeto solamente a deducciones permitidas. Para mayor informacion, comuníquese con nuestras oficinas.

Empleo Juvenil: para empleados menores de 16 años, existen reglas especiales. Para moyor informacion, comuniquese con nuestras oficinas.

Otras Disposiciones: otras reglas de empleo no se encuentran registradas en este cartel. Para obtener más información, un formulario de queja o para obtener una copia gratuita de la Guía de Normas de Empleo, comuníquese con la División de Normas de Empleo al teléfono: (902) 368-5550 o al número gratuito 1 (800) 333-4362, fax: (902) 368-5476 o visite www.peiemploymentstandards.com

Notificacion:
Este cartel es una guía solamente. Se recomienda encarecidamente al lector, consultar la Ley de Normas y Reglamentos de Empleo o la Ley de Empleo Juvenil. Cuando exista alguna diferencia entre este póster y la legislación, la legislación se considerará correcta.

DPC-283 spanish

What You Should Know About the Prince Edward Island *Employment Standards Act*

Most employees on Prince Edward Island are governed by the *Employment Standards Act* and Regulations that set minimum standards for the Island's workplaces.

Your Rights and Responsibilities at Work

Minimum Wage: most employees must be paid at least the minimum wage. Contact the Employment Standards Branch at (902)368-5550; toll-free at 1-800–333-4362 or visit www.peiemploymentstandards.com for the current rate.

Hours of Work: most employees must be paid overtime pay after working more than 48 hours in any given week. Employees in certain industries must work more than 48 hours in any given week before becoming entitled to overtime pay. Contact Branch for details.

Overtime Pay: rate must be at least 1.5 times the employee's regular rate of pay for each hour of overtime worked.

"Banking" of Overtime Hours: an employee can choose to accumulate overtime hours as paid time off if the employer agrees. The agreement must be in writing. An employee must receive 1.5 hours of paid time off for each hour of overtime accumulated. Contact Branch for details.

Pay Period: an employee's pay period must not exceed 16 days.
Pay day can not be later than five working days from the close of that pay period.

Pay Stub: employees must receive a pay statement along with their pay. Employees who receive an electronic pay statement must have confidential workplace access to view the statement and a means of making a paper copy.

Reporting Pay: each time an employee is required to report to work, or for a work-related activity, the employee must be paid for at least three hours at their regular pay.

Rest Periods: most employees are entitled to:
- a daily unpaid break of at least one-half hour after every five continuous hours of work; and
- a weekly unpaid break of at least 24 consecutive hours in every week of seven days.

Paid Vacation: most employees are entitled to an annual paid vacation of two weeks after each year of employment and then three weeks of annual paid vacation after the employee has completed eight continuous years for the same employer. Part-time employees who have worked for a continuous period of one year can decide to receive vacation pay instead of vacation time after notifying the employer in writing.

Paid (Statutory) Holidays: New Year's Day, Islander Day, Good Friday, Canada Day, Labour Day, National Day for Truth and Reconciliation, Remembrance Day and Christmas Day.

Tips: tips and gratuities are the property of an employee and cannot be shared with an employer.

Prince Edward Island
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Special Leaves: most employees are entitled to 11 job-protected leaves:
- bereavement leave: one paid day and up to two unpaid days for the death of an immediate family member; up to three unpaid days for the death of an extended family member;
- sick leave: up to three unpaid days each calendar year for employees with more than three months but less than five years of continuous employment with the same employer. One day of paid sick leave and up to three days of unpaid leave each calendar year for employees with more than five years of continuous employment with the same employer;
- emergency leave: unpaid leave when a publicly declared emergency prevents an employee from working; ends when the public emergency ends or no longer prevents the employee from working.
- family leave: three unpaid days each calendar year after six months of continuous employment with the same employer;
- maternity/parental/adoption leave: unpaid leave of up to 78 weeks. Eligible if employed by the same employer in any 20 weeks of the 52 weeks prior to start of leave and if currently employed by the same employer;
- critically ill child leave: unpaid leave of up to 37 weeks within a 52-week period to provide care and support to a critically ill child; must be continuously employed for at least three months and be the parent of the child.
- crime-related disappearance / death of a child leave: unpaid leave of up to 52 weeks if the employee's child disappears as a probable result of a crime; 104 weeks if the employee's child dies as a probable result of a crime; must be continuously employed for at least three months and be the parent of the child.
- court leave: unpaid leave for jury duty;
- compassionate care leave: an unpaid leave of absence of up to 28 weeks to care for someone who is considered to be a family member and has been diagnosed with a condition which has a significant risk of death within 26 weeks.
- reservist leave: unpaid leave for an employee who must be absent from civilian employment for military service; must work at least six months for the same employer.
- domestic violence / intimate partner violence / sexual violence leave - 3 paid days and 7 unpaid days per calendar year after three months of continuous employment with the same employer.

Notice of Termination: employers who terminate an employee without just cause must give the employee written notice or pay in lieu of written notice:
- less than six months of continuous employment – no notice required;
- six months to five years continuous employment – two weeks;
- five years to 10 years continuous employment – four weeks;
- 10 years to 15 years continuous employment – six weeks;
- more than 15 years continuous employment – eight weeks

Employees who resign with between six months and five years of continuous employment must provide one week of written notice to the employer and after five years of continuous employment must provide two weeks of written notice. An employee who resigns within six months of continuous service is not required to give notice.

Pay Deductions: an employee's pay is subject only to permitted deductions. Contact Branch for details.

Youth Employment: employees under 16 years have special rules. Contact Branch for details.

Other Provisions: other employment rules are not listed on this poster. To obtain more information or a complaint form or to obtain a free copy of the Guide to Employment Standards, contact the Employment Standards Branch at Tel: (902)368-5550 or toll free at 1(800) 333-4362, Fax: (902)368-5476 or visit www.peiemploymentstandards.com

This poster is a guide only. The reader is strongly advised to consult the *Employment Standards Act* **and Regulations or** *Youth Employment Act*.
Where any difference exists between this poster and the legislation, the legislation will be considered correct.

DPCEC-3081



PRINCE EDWARD ISLAND
ÎLE-DU-PRINCE-ÉDOUARD

OCCUPATIONAL HEALTH AND SAFETY ACT

PLEASE NOTE

This document, prepared by the ***Legislative Counsel Office***, is an office consolidation of this Act, current to August 1, 2023. It is intended for information and reference purposes only.

This document is ***not*** the official version of the Act. The Act and the amendments as printed under the authority of the King's Printer for the province should be consulted to determine the authoritative statement of the law.

For more information concerning the history of this Act, please see the ***Table of Public Acts*** on the Prince Edward Island Government web site (www.princeedwardisland.ca).

If you find any errors or omissions in this consolidation, please contact:

Legislative Counsel Office
Tel: (902) 368-4292
Email: legislation@gov.pe.ca

OCCUPATIONAL HEALTH AND SAFETY ACT

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OCCUPATIONAL HEALTH AND SAFETY ACT

CHAPTER O-1.01

DEFINITIONS

1. Definitions

In this Act

(a) "**Board**" means the Workers Compensation Board continued under the *Workers Compensation Act* R.S.P.E.I. 1988, Cap. W-7.1;

(b) "**committee**" means a joint occupational health and safety committee established under section 25;

(c) "**construction**" includes building, erection, excavation, alteration, repair, renovation, dismantling, demolition, structural maintenance, painting, moving, land clearing, earth moving, grading, street and highway building, concreting, equipment installation and alteration and the structural installation of construction components and materials in any form or for any purpose, and any work in connection therewith;

(d) "**constructor**" means a person who contracts to do work on a project for an owner or who undertakes work on a project as an owner;

(e) "**contractor**" means a person who contracts for work to be performed at the workplace of the person contracting to have the work performed, but does not include a constructor;

(f) "**Council**" means the Occupational Health and Safety Advisory Council continued under subsection 22(1);

(g) "**Director**" means the Director of Occupational Health and Safety appointed under section 5 or any person designated by the Director under subsection 6(2) to act on behalf of the Director;

(h) "**employer**" means a person who employs one or more workers or contracts for the services of one or more workers, and includes a constructor or contractor;

(i) "**former Act**" means the *Occupational Health and Safety Act* R.S.P.E.I. 1988, Cap. O-1;

(j) "**medical examination**" means a medical examination conducted by a medical practitioner;

(k) "**Minister**" means the Minister appointed by the Lieutenant Governor in Council to administer this Act;

(l) "**occupational disease**" means an occupational disease as defined in the *Workers Compensation Act*;

(m) "**officer**" means an occupational health and safety officer appointed under subsection 5(2) and includes the Director;

(n) "**owner**" includes

(i) a trustee, receiver, mortgagee in possession, tenant, lessee or occupier of lands or premises used or to be used as a workplace, and

(ii) a person who acts for or on behalf of a person referred to in subclause (i) as that person's agent or delegate;

(o) "**policy**" means an occupational health and safety policy made under this Act;

(p) "**program**" means an occupational health and safety program required under this Act, unless the context otherwise requires;

(q) "**project**" means a construction project, and includes

(i) the construction, erection, excavation, renovation, repair, alteration or demolition of a structure, building or tunnel 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;

(r) "**protective equipment**" means a piece of equipment or clothing designed to be used to protect the occupational health or safety of a worker;

(s) "**regularly employed**" includes seasonal employment with a recurring period of employment that exceeds 12 weeks;

(t) "**representative**" means an occupational health and safety representative selected under section 26;

(u) "**self-employed person**" means a person who is engaged in an occupation on that person's own behalf;

(v) "**supplier**" means a person who manufactures, supplies, sells, leases, distributes or installs any item, device, material, equipment or machinery or a biological, physical or chemical agent to be used by a worker;

(w) repealed by *2008,c.20,s.72;*

(x) "**worker**" means

(i) a person employed in a workplace,

(ii) a person in a workplace for any purpose in connection therewith;

(y) "**workplace**" means a place where a worker is or is likely to be engaged in an occupation and includes a vehicle, fishing vessel or mobile equipment used or likely to be used by a worker in an occupation. *2004,c.42,s.1; 2008,c.20,s.72(64).*

APPLICATION

2. Purpose of Act

The purpose of this Act is to secure workers and self-employed persons from risks to their safety, health and physical or psychological well-being arising out of, or in connection with, activities in their workplaces. *2004,c.42,s.2; 2018,c.45,s.1.*

3. Application

(1) Subject to subsection (2), this Act applies to all workplaces within the legislative jurisdiction of the province.

Exemption

(2) This Act does not apply to workplaces exempted by regulation from the application of this Act.

Application

(3) To the extent that the Government of Canada submits, this Act binds the Government of Canada, and every other person whose occupational health and safety standards are ordinarily within the legislative jurisdiction of the Parliament of Canada. *2004,c.42,s.3; 2022,c.62,s.49.*

ADMINISTRATION

4. Duties of the Board

(1) The Board shall

(a) administer this Act and the regulations;

(b) develop and maintain reasonable standards for the protection of the occupational health and safety of workers and self-employed persons in the province;

(c) provide services to assist committees, representatives, employers, workers and self-employed persons in maintaining reasonable standards of occupational health and safety;

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

(e) develop or provide access to educational programs and seminars to promote occupational health and safety;

(f) either alone, or in conjunction with departments or agencies, gather statistics related to accidents and occupational diseases of workers and self-employed persons; and

(g) carry out such activities as it may consider necessary to further the purposes of this Act.

Inspections for Government of Canada

(2) The Board may agree with the Government of Canada to carry out occupational health and safety inspections or other work on behalf of the Government of Canada. *2004,c.42,s.4.*

5. Director of Occupational Health and Safety

(1) The Board shall appoint a person employed by the Board as the Director of Occupational Health and Safety.

Officers and workers

(2) The Director shall appoint occupational health and safety officers as the Director considers necessary for the enforcement of this Act and the regulations. *2004,c.42,s.5; 2015,c.37,s.1.*

6. Duties of Director

(1) The Director shall

(a) cause workplaces to be inspected;

(b) enforce this Act and the regulations; and

(c) carry out other duties to further the purposes of this Act or as required by the Board.

Director may delegate

(2) The Director may delegate to any person employed by the Board any of the powers or duties of the Director under this Act or the regulations except the power to appoint occupational health and safety officers under subsection 5(2). *2004,c.42,s.6; 2015,c.37,s.2.*

7. Powers of officer

(1) Subject to subsection (3), an officer may investigate and determine compliance by any person with this Act and the regulations and an order made thereunder and an officer may

(a) at any reasonable time 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 occupational health and safety of workers 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, and remove them temporarily for the purpose of making copies;

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

(e) inspect, take samples and conduct tests of samples, including tests in which a sample is destroyed, of any item, device, material, equipment or machinery being produced, used or found at the workplace;

(f) in an inspection, examination, inquiry or a test, be accompanied and assisted by a person having special expertise or professional knowledge of any matter;

(g) make any examination, investigation or inquiry as the officer considers necessary;

(h) exercise such other powers as may be necessary or incidental to the carrying out of the officer's functions under this Act or the regulations; and

(i) require, in writing, an employer to produce any record or information, or to provide a report or an assessment, made or to be made by a person possessing such special expertise or professional knowledge or qualifications as are specified by the officer, of any biological, chemical or physical agents or combination of such agents used or intended to be used in a workplace.

Responsibility of officer

(2) An officer is responsible for a sample taken under clause (1)(e), until

(a) the sample has been destroyed; or

(b) the sample is returned to the workplace being inspected.

Entry in private residence

(3) An officer may enter the part of a private residence being used as a workplace

(a) with the consent of the occupier; or

(b) under the authority of a warrant issued under subsection (4).

Warrant

(4) A judicial justice of the peace may, on the application of the Director, issue a warrant authorizing an officer to enter the part of a private residence being used as a workplace, if the judicial justice of the peace is satisfied by information on oath that entry by the officer is necessary for any purpose relating to the administration and enforcement of this Act.

Persons entitled to accompany officer

(5) Where an officer conducts an inspection of a workplace under subsection (1), the owner, constructor, contractor, employer, supervisor or the person in charge of the workplace shall designate a representative of management to accompany the officer and shall provide a committee member representing workers, or a representative, if any, with the opportunity to

accompany the officer during the officer's inspection of a workplace, or any part of the workplace.

Consultation with workers

(6) Where there is no committee member representing workers or no representative, the officer shall consult during the inspection with a reasonable number of the workers at the workplace respecting matters of occupational health and safety at their workplace. *2004,c.42,s.7; 2018,c.52,s.69.*

8. Order

(1) Where an officer determines that a provision of this Act or the regulations is being contravened, the officer may issue an order, orally or in writing, to the owner, constructor, contractor, employer, supervisor or the person in charge of the workplace or to the person in contravention of this Act or the regulations, to comply with the provision and the officer may require that the order be carried out forthwith or within a time period specified by the officer.

Confirmation in writing

(2) Where an officer issues an oral order under subsection (1), the officer shall confirm the order in writing before leaving the workplace or promptly thereafter.

Content

(3) An order made under subsection (1) shall indicate the nature of the contravention and, where appropriate, the location of the contravention.

Orders where a worker is endangered

(4) Where an officer makes an order under subsection (1) and finds that the contravention determined under subsection (1) is a danger or hazard to the occupational health or safety of a worker, the officer may, in addition to an order made under subsection (1),

(a) order that the area, item, place, device, material, process, equipment or machinery shall not be used until the order made under subsection (1) is complied with;

(b) order that work stop at the workplace named in the order until the order is cancelled by an officer; or

(c) order that the workplace where the contravention exists be cleared of workers and isolated by barricades, fencing or any other means suitable to prevent access by a worker until the danger or hazard to the occupational health or safety of a worker is removed.

Posting of order

(5) Where an officer issues an order under subsection (1) or (4), the officer shall post at the workplace or affix to the item, device, material, equipment or machinery in the workplace a copy of the order.

Exception

(5.1) Subsection (5) does not apply to an order in relation to an occurrence of workplace harassment that contains

(a) individually identifying information about a worker or other person in the workplace; or

(b) other personal information, as defined in the *Freedom of Information and Protection of Privacy Act* R.S.P.E.I. 1988, Cap. F-15.01, about a worker or other person in the workplace.

Removal of order prohibited

(6) No person shall remove an order posted or affixed under subsection (5) unless authorized to do so by an officer.

Idem

(7) Where an officer makes an order in writing or issues a report of the inspection to an owner, constructor, contractor, employer, supervisor or a person in charge of the workplace, the officer shall

(a) forthwith cause a copy of the order to be posted in a conspicuous place at the workplace where it is most likely to come to the attention of the workers;

(b) provide a copy of the order or of the report to the representative, if any, and the committee, if any; and

(c) provide a copy of the order to the person who has complained of a contravention of this Act or the regulations. *2004,c.42,s.8; 2018,c.45,s.2.*

9. Entry into isolated workplace

(1) Where an order is made under clause8(4)(c), no owner, constructor, contractor, employer, supervisor or person in charge of the workplace shall require or permit a worker to enter the isolated workplace, except for the purpose of doing work that is necessary or required to remove the danger or hazard, and only where the worker is protected from the danger or hazard.

Application

(2) Where the Director believes on reasonable grounds that an order made under subsection 8(4) has been or is about to be contravened, the Director may, without notice to any person to whom the order is directed, apply to the Supreme Court for an order under subsection (3).

Order

(3) The Supreme Court may order that the contravention or anticipated contravention of an order made under subsection 8(4) be restrained on such terms and for such duration as the Supreme Court may consider just. *2004,c.42,s.9.*

10. Appeal to Director

(1) Any owner, constructor, contractor, employer, supervisor or person in charge of the workplace or worker affected by an order made by an officer under this Act or the regulations may appeal the order to the Director, who shall hear and dispose of the appeal as promptly as practicable.

Method of appeal

(2) An appeal to the Director may be made orally or in writing, but the Director may require the grounds for appeal be specified in writing before the appeal is heard.

Director may stay order

(3) Where an appeal has been made to the Director under subsection (1), the Director may, at the request of the appellant, stay the order appealed from pending the disposition of the appeal.

Parties

(4) The appellant, the officer who made the order appealed from, and such other persons as the Director may specify, are parties to an appeal made under this section.

Powers of Director

(5) On the conclusion of an appeal, the Director may

(a) affirm the order;

(b) rescind the order; or

(c) make a new order based on his or her findings.

Appeal

(6) A decision of the Director made under this section may be appealed under section 11.

Effect of stay

(7) Where an order is stayed under subsection (3), no steps may be taken under the order for its execution or enforcement. *2004,c.42,s.10.*

11. Notice of appeal to Board

(1) A person affected by a decision of the Director made under section 10 may give notice of appeal to the Board within 30 days of the date of the Director's decision.

Appointment of arbitrator

(2) Where the Board receives a notice of appeal under subsection (1), it shall appoint an arbitrator to determine the matter.

Hearing

(3) The arbitrator shall, as soon as is practicable, hold a hearing at which the appellant and the Director are entitled to make representations.

Powers

(4) An arbitrator appointed under subsection (2) has all the powers of a commissioner appointed under the *Public Inquiries Act* R.S.P.E.I. 1988, Cap. P-31.

Powers of arbitrator

(5) On the conclusion of the appeal, the arbitrator shall make a written decision and may

(a) affirm the order;

(b) rescind the order; or

(c) make a new order based on his or her findings.

Decision final and binding

(6) The decision of the arbitrator is final and binding on the parties to the appeal and on the Board.

Director may stay order

(7) Where a notice of appeal is filed under subsection (1), the Director may, at the request of the appellant, stay the order appealed from pending the disposition of the appeal.

Effect of stay

(8) Where an order is stayed under subsection (7), no steps may be taken under the order for its execution or enforcement. *2004,c.42,s.11.*

DUTIES OF EMPLOYERS, WORKERS AND OTHER PERSONS

12. Duties of employers

(1) An employer shall ensure

(a) that every reasonable precaution is taken to protect the occupational health and safety of persons at or near the workplace;

(b) that any item, device, material, equipment or machinery provided for the use of workers at a workplace is properly maintained, and is properly equipped with the safety features or devices, as recommended by the manufacturer or required by the regulations;

(c) that such information, instruction, training, supervision and facilities are provided as are necessary to ensure the occupational health and safety of the workers;

(d) that workers and supervisors are familiar with occupational health or safety hazards at the workplace;

(e) that workers are made familiar with the proper use of all safety features or devices, equipment and clothing required for their protection; and

(f) that the employer's undertaking is conducted so that workers are not exposed to occupational health or safety hazards as a result of the undertaking.

Idem

(2) An employer shall

(a) consult and cooperate with the joint occupational health and safety committee or the representative, as applicable;

(b) cooperate with any person performing a duty or exercising a power conferred by this Act or the regulations;

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

(d) comply with this Act and the regulations and ensure that workers 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 under this Act, establish the policy or program.

Duty respecting workplace harassment

(3) An employer shall establish and implement as a policy, in accordance with the regulations, measures to prevent and investigate occurrences of harassment in the workplace. *2004,c.42,s.12; 2018,c.45,s.3.*

13. Duties of constructor

A constructor shall ensure

(a) that every reasonable precaution is taken to protect the occupational 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) that the communication of information necessary to the occupational health and safety of persons at the project occurs between the employers and self-employed persons at the project;

(d) that communication is facilitated between the constructor and a committee or representative required by this Act for the project;

(e) that the measures and procedures in this Act and the regulations are carried out at the project; and

(f) that every worker, self-employed person and employer performing work in respect of the project complies with this Act and the regulations. *2004,c.42,s.13.*

14. Duties of contractor

A contractor shall ensure

(a) that every reasonable precaution is taken to protect the occupational 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) that the communication of information necessary to the occupational health and safety of persons at the workplace occurs between the employers and self-employed persons at the workplace;

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

(e) that every worker, self-employed person and employer performing work at the workplace complies with this Act and the regulations. *2004,c.42,s.14.*

15. Duties of supplier

A supplier shall ensure

(a) that any item, device, material, equipment or machinery supplied by the supplier to a workplace is, when it is supplied, properly equipped with the safety features or devices required by the regulations;

(b) that the item, device, material, equipment or machinery is maintained in safe working condition and in compliance with this Act and the regulations, where it is the supplier's responsibility under an agreement to maintain it; and

(c) that a biological, chemical or physical agent supplied by the supplier is labelled in accordance with the applicable federal and provincial regulations. *2004,c.42,s.15.*

16. Duties of worker

(1) A worker, while at work, shall

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

(b) cooperate with the employer and with the other workers to protect the worker's own occupational health and safety and that of other persons at or near the workplace;

(c) wear or use such individual protective equipment as is required by this Act and the regulations;

(d) consult and cooperate with the committee or representative, if any;

(e) cooperate 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 and any policy or program established by an employer pursuant to this Act or the regulations.

Idem

(2) Where a worker believes that any item, device, material, equipment or machinery, condition or aspect of the workplace is or may be dangerous to the worker's occupational health or safety or that of other persons at or near the workplace, the worker

(a) shall immediately report it to a supervisor;

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

(c) may, where the matter is not remedied to the worker's satisfaction after the worker reports it in accordance with clauses (a) and (b), report it to an officer.

Application of clause (2)(b)

(3) Clause (2)(b) does not apply in respect of a complaint of harassment in the workplace. *2004,c.42,s.16; 2018,c.45,s.4.*

17. Duties of self-employed person

A self-employed person shall

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

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

(c) cooperate 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. *2004,c.42,s.17.*

18. Duties of owner

An owner shall

(a) take every reasonable precaution to provide and maintain the owner's land or premises used as a workplace

(i) in a manner that ensures the occupational 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 occupational health or safety of persons at the workplace. *2004,c.42,s.18.*

19. Duties of service provider

A person who, for gain, is a provider of an occupational health or safety service shall take every reasonable precaution to ensure that

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

(b) where the service involves providing information, the information provided, at the time that it is provided, is accurate and sufficiently complete to ensure an understanding of the information by persons who will use the information at a workplace. *2004,c.42,s.19.*

20. Duties of architect and engineer

An architect, as defined by the *Architects Act* R.S.P.E.I. 1988, Cap. A-18.1, and a professional engineer, as defined by the *Engineering Profession Act* R.S.P.E.I. 1988, Cap. E-8.1, shall carry out their duties

(a) in such a manner as to ensure the occupational health and safety of persons at or near a workplace; and

(b) in compliance with this Act and the regulations. *2004,c.42,s.20.*

21. Instruction in occupational health and safety principles

(1) An operator of a private training school under the *Private Training Schools Act* R.S.P.E.I. 1988, Cap. P-20.2, shall offer in its curriculum instruction in the occupational health and safety principles contained in this Act.

Idem

(2) Notwithstanding the *Holland College Act* R.S.P.E.I. 1988, Cap. H-8, Holland College shall offer in its curriculum, in every course of study or training program, instruction in the occupational health and safety principles contained in this Act. *2004,c.42,s.21; 2016,c.49,s.55.*

OCCUPATIONAL HEALTH AND SAFETY ADVISORY COUNCIL

22. Council continued

(1) The Occupational Health and Safety Advisory Council established under the former Act is continued.

Knowledge and experience of members

(2) The Minister shall appoint as members to the Council persons who have knowledge and experience relating to the principles and promotion of occupational health and safety, as follows:

(a) three persons representing workers;

(b) three persons representing employers;

(c) the Director;

(d) the chairperson of the Board or a person designated by the chairperson;

(e) one person representing the general public.

Term of office

(3) The term of office of a member of the Council, or person appointed to act in place of a member of the Council, shall be the term specified in the instrument of appointment.

Vacancy

(4) Where a vacancy occurs on the Council, the Minister may appoint a person to act in place of a member of the Council.

***Re*-appointment**

(5) A member of the Council whose term of office has expired is eligible for *re*-appointment to the Council.

Subcommittees

(6) The Council may appoint one or more subcommittees of the Council and a subcommittee shall perform, as specified by the Council, any of the duties described in subsection (10).

Idem

(7) A person who is not a member of the Council may be a member of a subcommittee of the Council.

Chair

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

Expenses

(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.

Duties of Council

(10) The Council may advise the Board on

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

(b) occupational health and safety, including providing recommendations and monitoring and reporting on occupational health and safety throughout the province;

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

(d) any other matter relating to occupational health and safety, including amendments to this Act or the regulations. *2004,c.42,s.22.*

PROGRAM

23. Occupational health and safety program

(1) Where 20 or more workers are regularly employed

(a) by an employer other than a constructor or contractor; or

(b) directly by a constructor or contractor,

the employer, constructor or contractor shall establish, and review at least annually, a written occupational health and safety program, in consultation with the committee or representative, if any.

Not applicable to persons under contract

(2) For the purposes of subsection (1), a worker is not regularly employed directly by a constructor or contractor if the worker works with the constructor or contractor as an independent contractor.

Content of program

(3) An occupational health and safety program shall include

(a) provisions for the training and supervision of workers in matters necessary to their occupational health and safety and the occupational health and safety of other persons at or near the workplace;

(b) provisions for

(i) the preparation of written work procedures for the implementation of occupational health and safety work practices, required by this Act, the regulations or by order of an officer, and

(ii) the identification of the types of work for which the procedures are required at the employer's workplace;

(c) provisions for the establishment and continued operation of a committee required by this Act, including maintenance of records of membership, rules of procedure, access to a level of management with authority to resolve occupational health and safety matters, and information required by this Act or the regulations;

(d) provisions for the selection and functions of a representative where required by this Act, including provision for access by the representative to a level of management with authority to resolve occupational 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 shall 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) the maintenance of records and statistics, including reports of occupational health and safety inspections and investigations, with provision for making the reports available to persons entitled to receive them under this Act; and

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

Copies

(4) The employer shall make a copy of the program established under this section available

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

(b) on request, to a worker at the workplace.

Results not a report

(5) The results of a workplace harassment investigation do not constitute a report for the purposes of clause (3)(h). *2004,c.42,s.23; 2018,c.45,s.5.*

POLICY

24. Occupational health and safety policy

(1) Where five or more workers are regularly employed

(a) by an employer other than a constructor or contractor; or

(b) directly by a constructor or contractor,

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

Not applicable to persons under contract

(2) For the purposes of subsection (1), a worker is not regularly employed directly by a constructor or contractor if the worker works with the constructor or contractor as an independent contractor.

Consultation

(3) Where this Act does not require a committee or a representative, an employer shall consult the workers regarding the proposed policy.

Content of policy

(4) An occupational health and safety policy shall express the commitment of the employer to occupational health and safety including

(a) the commitment of the employer to cooperate with the workers in pursuing occupational health and safety; and

(b) a statement of the responsibilities of the employer, supervisors and other workers in fulfilling the commitment. *2004,c.42,s.24.*

COMMITTEE

25. Joint occupational health and safety committee

(1) At a workplace where 20 or more persons are regularly employed by an employer, the employer

(a) shall establish and maintain a joint occupational health and safety committee; and

(b) may establish additional such committees.

Idem

(2) Where 20 or more persons are regularly employed by one or more constructors at a project that is expected to last three months or more, a constructor shall establish and maintain a committee for the project.

Order

(3) At a workplace where fewer than 20 but more than five persons are regularly employed, the Director may consult with the workers and employers at the workplace regarding the establishment of a committee and the Director may order that a committee be established.

Idem

(4) Where the Director orders that a committee be established under subsection (3), the employer shall ensure that the committee is functioning in accordance with this Act within 30 days of receipt of the order.

Members

(5) A committee shall be composed of the number of persons

(a) agreed to by the workers or their union, and the employer; or

(b) ordered by the Director.

Membership of committee

(6) Membership of the committee shall be determined as follows:

(a) one-half of the members shall be selected by the union representing the workers or, in the absence of a union, by the workers that the members represent;

(b) one-half of the members shall be selected by the employer.

Duties of committee

(7) The committee shall

(a) cooperate to identify hazards to occupational health and safety in the workplace and effective systems to respond to the hazards;

(b) receive, investigate and promptly deal with issues respecting occupational health and safety, other than a complaint of workplace harassment;

(c) participate in inspections, inquiries and investigations respecting the occupational health and safety of workers in the workplace, other than an investigation of a complaint of workplace harassment;

(d) advise the employer on individual protective equipment, devices and safety features that are best suited to the needs of the workers, within the provisions of this Act and the regulations;

(e) advise the employer regarding a policy or program required by this Act;

(f) make recommendations to the employer, the workers and any other persons for the improvement of the occupational health and safety of persons at the workplace; and

(g) maintain records and minutes of committee meetings in a form and manner approved by the Director and provide an officer with a copy of those records and minutes at the request of the officer.

Meetings

(8) Subject to subsection (9), a committee shall meet at least once each month unless the committee otherwise provides in its rules of procedure.

Idem

(9) Where the Director is not satisfied that the frequency of meetings of a committee is sufficient to enable the committee to effectively perform its functions, the Director may order the committee to hold meetings at such frequency as the Director may specify.

Time off work

(10) A worker who is a member of a committee is entitled to take the necessary time off from work to attend meetings of the committee, to take training prescribed by the regulations and to carry out the worker's functions as a member of the committee.

Salary and benefits

(11) The time off from work referred to in subsection (10) shall be deemed to be work time for which the worker is entitled to the worker's usual salary and benefits, without change.

Rules of procedure

(12) A committee shall establish its own rules of procedure. *2004,c.42,s.25; 2018,c.45,s.6.*

REPRESENTATIVE

26. Occupational health and safety representative

(1) Where the number of workers employed at a workplace is five or more but no committee is required under section 25, the employer shall require the workers to select at least one representative from among the workers who do not perform managerial functions.

Idem

(2) Where the number of workers at a project is five or more but no committee is required under section 25, the constructor shall require the workers to select at least one representative from among the workers who do not perform managerial functions.

Idem

(3) Where the number of workers at a workplace is fewer than five, the Director may

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

(b) order that the workers select a representative if the Director considers that a representative is necessary to ensure that occupational health and safety issues in the workplace are monitored.

Time off work

(4) A worker who is a representative is entitled to take the necessary time off from work to attend meetings of the committee, to take training prescribed by the regulations and to carry out the worker's functions as a representative.

Salary and benefits

(5) The time off from work referred to in subsection (4) shall be deemed to be work time for which the worker is entitled to the worker's usual salary and benefits, without change.

Duties of representative

(6) A representative shall be involved on behalf of the workers, together with the employer, in occupational health and safety issues in the workplace and shall

(a) cooperate to identify hazards to occupational health and safety in the workplace and effective systems to respond to the hazards;

(b) receive, investigate and promptly deal with issues respecting occupational health and safety, other than a complaint of workplace harassment;

(c) participate in inspections, inquiries and investigations respecting the occupational health and safety of workers in the workplace, other than an investigation of a complaint of workplace harassment;

(d) advise the employer on individual protective equipment, devices and safety features that are best suited to the needs of the workers, within the provisions of this Act and the regulations;

(e) advise the employer regarding a policy or program required by this Act; and

(f) make recommendations to the employer, the workers and any other persons for the improvement of the occupational health and safety of persons at the workplace. *2004,c.42,s.26; 2018,c.45,s.7.*

INFORMATION RESPONSIBILITIES

27. Employer's response

(1) Subject to clause (2)(c), an employer who receives written recommendations from a committee or a representative, if any, under clauses 25(7)(f) and 26(6)(f) together with a request for a response to the recommendations, shall respond in writing to the committee or representative within 30 days of the request.

Content of response

(2) The employer's response referred to in subsection (1) shall

(a) indicate acceptance of the recommendations;

(b) give reasons for the disagreement with recommendations that the employer does not accept; or

(c) where it is not reasonably practicable to provide a response before the expiry of the 30-day period, provide within that time a reasonable explanation for the delay indicating to the committee or a representative, if any, when the response will be coming, and provide the response as soon as it is available.

Report to officer

(3) If the committee or a representative, if any, considers that the explanation provided by the employer under clause (2)(c) is unacceptable or unreasonable, the committee or representative shall promptly report that fact to an officer.

Report to committee

(4) An employer shall notify the committee or representative of the existence of reports of occupational health and safety inspections, monitoring or tests undertaken at the workplace by, or at the request of, an officer or the employer and the employer shall make the reports available on request to the committee or the representative.

Report to worker

(5) An employer shall, on the request of a worker at the workplace, make available to the worker reports of occupational health or safety inspections, monitoring or tests undertaken at the workplace by, or at the request of, an officer or the employer.

Inspection reports, etc.

(6) An officer shall provide the employer at a workplace with reports of inspections, monitoring and tests undertaken at the workplace by, or at the request of, an officer.

Posting

(7) An employer shall

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

(b) promptly post the minutes of the most recent committee meeting and ensure that they remain posted until superseded by the minutes of the next committee meeting.

Duties of employers

(8) An employer shall

(a) make available for examination at the workplace information and reports that an officer considers advisable to enable workers to know their rights and responsibilities under this Act and the regulations; and

(b) post, and ensure that they remain posted in the workplace,

(i) a code of practice required under this Act or the regulations,

(ii) a current telephone number for reporting occupational health or safety concerns, and

(iii) the occupational health and safety policy where the employer is required by this Act to have a policy.

Posting

(9) Where anything other than the information referred to in subsection (8) is required to be posted by this Act or the regulations, the person who has the duty to post it shall

(a) post a legible copy of it in a prominent place in the workplace; and

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

Provide to each worker

(10) Notwithstanding subsection (9), a person who is required to post anything required to be posted under subsection (9) may, alternatively, provide that information to each worker in writing. *2004,c.42,s.27.*

REFUSAL TO WORK

28. Right to refuse work

(1) A worker may refuse to do an act at the worker's workplace where the worker has reasonable grounds for believing that the act is likely to endanger the worker's occupational health or safety or the occupational health and safety of another worker.

Report to and investigation by supervisor

(2) A worker who has reason to believe that an act is likely to endanger the worker's occupational health and safety or the occupational health or safety of another worker shall immediately report the concern to the worker's supervisor, who shall promptly investigate the situation in the presence of the worker.

Remedial action

(3) Where a supervisor finds that the worker has reasonable grounds for believing that an act is likely to endanger the worker's occupational health or safety or the occupational health or safety of another worker, the supervisor shall take appropriate remedial action or recommend appropriate remedial action to the employer.

Refusal found groundless

(4) Where a supervisor finds the worker does not have reasonable grounds for believing that an act is likely to endanger the worker's occupational health or safety or the occupational health or safety of another worker, the supervisor shall advise the worker to do that act.

Referral to committee or representative

(5) Where a worker has made a report under subsection (2) and the matter has not been resolved to the worker's satisfaction, the worker shall refer the matter to a committee or representative or, where there is no committee or representative, to an officer.

Investigation by committee, representative

(6) On receipt of a referral under subsection (5), the committee, representative or officer shall promptly investigate the situation.

Remedial action

(7) Where a committee or representative finds that the worker has reasonable grounds for believing that an act is likely to endanger the worker's occupational health or safety or the occupational health or safety of another worker, the committee or representative shall recommend appropriate remedial action to the employer.

Advised to do act

(8) Where a committee or representative finds that the worker does not have reasonable grounds for believing that an act is likely to endanger the worker's occupational health or safety or the occupational health or safety of another worker, the committee or representative shall advise the worker to do that act.

Referral to officer

(9) Where a matter has been referred to a committee or representative under subsection (5), and the matter is not resolved to the satisfaction of the worker, the worker may refer the matter to an officer.

Investigation by officer

(10) On receipt of a referral under subsection (5) or (9), an officer shall promptly investigate the situation and make the officer's findings known in writing, as soon as is practicable, to the employer, the worker and the committee or representative, if any, as to whether the worker has reasonable grounds for believing that an act is likely to endanger the worker's occupational health or safety or the occupational health or safety of another worker.

Order for remedial action

(11) Where, on a referral under subsection (5) or (9), an officer finds that a worker has reasonable grounds for believing that an act is likely to endanger the worker's occupational health or safety or the occupational health or safety of another worker, the officer shall order remedial action to be taken by the employer.

Refusal found groundless by officer

(12) Where, on a referral under subsection (5) or (9), an officer finds that a worker does not have reasonable grounds for believing that an act is likely to endanger the worker's occupational health or safety or the occupational health or safety of another worker, the officer shall advise the worker to do that act.

Attendance at workplace

(13) Pending an investigation under this section, the worker shall remain available at the workplace during the worker's normal working hours. *2004,c.42,s.28.*

29. Protection of worker's right of refusal

(1) A worker's right under subsection 28(1) to refuse to do an act is protected

(a) if the worker has reported the concern to the worker's supervisor under subsection 28(2),

(i) until remedial action recommended by the supervisor under subsection 28(3) is taken by the supervisor or employer to the worker's satisfaction, or

(ii) until the supervisor has advised the worker under subsection 28(4) to do that act;

(b) if the worker has referred the matter to a committee or representative under subsection 28(5),

(i) until remedial action recommended by the committee or representative under subsection 28(7) is taken by the employer to the worker's satisfaction, or

(ii) until the committee or representative has advised the worker under subsection 28(8) to do that act; and

(c) if the worker has referred the matter to an officer under section 28(5),

(i) until remedial action ordered by the officer under subsection 28(11) is taken by the employer to the officer's satisfaction, or

(ii) until the officer has advised the worker under subsection 28(12) to do that act.

Duty to advise other workers

(2) Where a worker has refused to do an act at the worker's workplace under subsection 28(1), the employer shall not assign another worker to perform that act unless that other worker has been advised by the employer of the refusal and the reasons therefor and of the worker's rights under this Act.

Assignment to other work without loss of wages

(3) Subject to subsection (4), where a worker has refused to do an act under subsection 28(1) and the worker's right to refuse is protected under subsection (1), the worker's employer may reassign the worker temporarily to perform other acts or to perform other work that is reasonably equivalent to the acts or work the worker normally performs and the employer shall pay the worker the same wages and grant the worker the same benefits as the worker would have received if he or she had not refused to do the act.

Collective agreement applies

(4) Where a collective agreement is in force, a reassignment referred to in subsection (3) shall be made in accordance with the collective agreement.

Wages and benefits not affected if refusal upheld

(5) Where a worker has reasonably refused to do an act under subsection 28(1), the worker's right to refuse is protected under subsection (1) and the worker has not been reassigned to perform other acts or to perform other work under subsection (3), the employer shall pay the worker the same wages and grant the worker the same benefits as the worker would have received if he or she had not refused to do the act, if the worker's refusal is upheld.

Frivolous refusal

(6) Where it is determined that the worker's refusal was for frivolous reasons, the worker shall not be entitled to wages and benefits for the applicable time period. *2004,c.42,s.29.*

30. Discriminatory action

(1) No employer or union shall

(a) take discriminatory action against a worker;

(b) threaten to take discriminatory action against a worker;

(c) except as provided in subsection 29(6), impose a penalty on a worker; or

(d) intimidate or coerce a worker

because the worker has sought the enforcement of this Act, the regulations or an order made in accordance with this Act or the regulations, or has acted in compliance with this Act, the regulations or an order made in accordance with this Act or the regulations.

Reassignment

(2) A reassignment under subsection 29(3) is not discriminatory action under this section. *2004,c.42,s.30.*

31. Settlement by arbitration

(1) Where a worker complains that an employer or a union has violated section 30, the worker may have the matter dealt with either by final and binding settlement by arbitration under a collective agreement, if any, or by filing a complaint in writing with the Board.

Referral to arbitrator by Board

(2) On receipt of a complaint referred to in subsection (1), the Board shall, having satisfied itself that all required steps to resolve the complaint have been exhausted, refer the complaint to an arbitrator whom the Board shall appoint.

Powers

(3) An arbitrator has all the powers of an arbitrator under the *Labour Act* R.S.P.E.I. 1988, Cap. L-1.

Orders

(4) Where an arbitrator finds that the action of an employer or a union contravened subsection 30(1), the arbitrator shall make an order in writing that may include

(a) an order to the employer or union to cease the discriminatory action;

(b) an order to an employer to reinstate the worker to the worker's former employment under the same terms and conditions on which the worker was formerly employed;

(c) an order to the employer to pay to the worker any wages the worker lost because the worker was wrongfully discriminated against; or

(d) an order to the employer or union that a reprimand or other reference to the matter in the employer's or union's records on the worker's conduct be removed.

Copies of order

(5) The arbitrator shall provide a copy of the order and his or her reasons to the Board, to the employer or union and to the worker.

Order filed in Supreme Court

(6) Where

(a) an arbitrator has made an order respecting a party; and

(b) the party has failed to comply with the order,

a person affected by the order may, 14 days after the date of the order or after the date required in the order for compliance with it, whichever is later, file the order with the Registrar of the Supreme Court.

Order enforced as judgment

(7) An order filed under subsection (6) shall be entered in the records of the Supreme Court in the same way as a judgment filed under the *Judgment and Execution Act* R.S.P.E.I. 1988, Cap. J-2, and the order is enforceable as a judgment under that Act. *2004,c.42,s.31.*

TOXIC SUBSTANCES

32. Chemicals, etc. to be listed

(1) An employer at a workplace shall prepare a list of all biological, chemical or physical agents used, handled, produced or otherwise present at the workplace that may be hazardous to the occupational health or safety of workers or are suspected by the workers of being hazardous and the list shall identify all such agents by their common or generic names, where they are known to the employer.

Content of record

(2) For every biological, chemical or physical agent required to be listed under subsection (1), the employer shall take all reasonable steps to ascertain from suppliers or otherwise and to record the following information on every agent:

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

(b) the composition and the properties;

(c) the toxicological effects;

(d) the effects of exposure, whether by contact, inhalation or ingestion;

(e) the protective measures used or to be used in respect of the agent;

(f) the emergency measures used or to be used to deal with exposure to the agent;

(g) the information on the use, transport, storage and disposal of the agent.

Copies

(3) The employer shall ensure that the list referred to in subsection (2) is kept current and the employer shall provide a copy of the current list

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

(b) on request, to an officer or a worker.

Trade name supplied to officer

(4) Where the employer is unable to ascertain the ingredients or composition of a biological, chemical or physical agent listed in this section, the employer shall promptly provide the officer with the trade name, and the name and address of the manufacturer of the agent. *2004,c.42,s.32.*

MEDICAL EXAMINATION

33. Occupational disease, examination

(1) The Director may arrange, with the consent of the worker, to have the worker medically examined by a medical practitioner to determine whether the worker is suffering from an occupational disease.

Alteration of status

(2) No employer shall, without the consent of the worker, alter in any manner or prejudicially affect the status of a worker by reason of the results of a medical examination carried out under this section.

Cost of examination

(3) A medical examination carried out under subsection (1) shall, where practicable, be carried out during the normal working hours of the worker, and the cost shall in all cases be paid by the employer.

No deductions from wages

(4) Where a worker is examined during the worker's normal working hours, the employer shall not make deductions from wages or other benefits for the time lost by the worker in going to, attending or returning from, a medical examination.

Medical reports

(5) Where a medical practitioner

(a) has attended a worker who became ill while engaged in the worker's employment; or

(b) has performed a medical examination under subsection (1),

the medical practitioner shall, at the request of the Director, provide the Director with such medical reports as the Director requires in relation to the worker attended or examined. *2004,c.42,s.33.*

MISCELLANEOUS

34. Code of practice

(1) For the purpose of providing practical guidance for the carrying out of the requirements of any provision of this Act or the regulations, the Director may, after consultation with interested persons or associations that the Director considers advisable to consult,

(a) issue a code of practice; or

(b) amend or repeal a code of practice issued under clause (a).

Publication

(2) Where a code of practice is issued, amended or repealed under this section, the Director shall publish a notice in the Gazette identifying the code of practice, specifying the provisions of this Act or the regulations to which it relates and stating the effective date of the code of practice, amendment or repeal.

Not offence

(3) The failure by a person to observe a provision of a code of practice is not of itself an offence.

Admissible as evidence

(4) Where a person is charged with a breach of this Act or the regulations with respect to which the Director has issued a code of practice, the code of practice is admissible as evidence in a prosecution for the violation of this Act or the regulations.

Idem

(5) A copy of a code of practice or an amendment to a code of practice that is certified to be a true copy by the Director shall be received in evidence in any court without proof of the signature, appointment or authority of the Director. *2004,c.42,s.34.*

35. Exemption

(1) To meet the special circumstances in a particular case, the Director may, on receipt of a written application and after consultation with interested persons or associations that the Director considers advisable to consult, exempt conditionally or otherwise a person or class of persons from any provision of the regulations or a code of practice.

Idem

(2) An exemption under subsection (1) may be made only where the Director is satisfied that the standard of occupational health and safety of a worker is not materially affected by the exemption. *2004,c.42,s.35.*

36. Reporting of accidents

(1) Where an accident occurs in the workplace in which a worker is seriously injured in a manner which causes or may cause a fatality, suffers a loss of limb, unconsciousness, substantial loss of blood, a fracture, an amputation of a leg, arm, hand, or foot, a burn to a major portion of the body, or the loss of sight in an eye, the employer shall ensure that written notice is sent, by the fastest means available, to the Director within 24 hours of the accident.

Notify committee

(2) Where an accident is reported under subsection (1), the employer shall notify the committee, where one exists, or the representative, if any.

Accident scene

(3) Except as otherwise directed by an officer, no person shall disturb the scene of an accident that results in a serious injury or a fatality except to the extent that it is necessary

(a) to attend to persons injured or killed;

(b) to prevent further injuries; or

(c) to protect property that is endangered as a result of the accident. *2004,c.42,s.36.*

37. Accidental explosions

An employer shall, whether or not a person has been injured, provide the Director with a written report of all accidental explosions. *2004,c.42,s.37.*

38. Board of inquiry

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

(a) any matter concerning the occupational health and safety of workers employed,

(i) at a particular workplace,

(ii) by a particular employer or group of employers, or

(iii) in an industry; or

(b) the circumstances surrounding, and the causes of, an accident.

Powers

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

Recommended remedial action

(3) A board of inquiry may include in its report recommendations to the Board with respect to remedial action. *2004,c.42,s.38.*

39. Confidentiality

(1) Except for the purposes of this Act and the regulations, for the purposes of administering any other legislation that is administered by the Board, or as required by law,

(a) an officer, a person accompanying an officer, or a person who, at the request of an officer, makes an examination, inquiry or a test, shall not publish, disclose or communicate to another person any information, material, statement, report or result of an examination, inquiry or a test acquired, provided, obtained, made or received under the powers conferred under this Act or the regulations;

(b) no person shall publish, disclose or communicate to another person a manufacturing secret or trade secret acquired, provided, obtained, made or received under this Act or the regulations;

(c) no person to whom information is communicated under this Act, or the regulations shall divulge the name of the informant to any person; and

(d) no person shall disclose information obtained in a medical examination, test or X-ray of a worker made or taken under this Act except in a form calculated to prevent the information from being identified with a particular person or case.

Persons not compellable witnesses

(2) An officer or a person who, at the request of an officer, accompanies an officer, or a person who makes an examination, inquiry or a test or takes samples at the request of an officer, is not a compellable witness in a civil suit or any proceeding, except before a board of inquiry set up under this Act or an inquest under the *Coroners Act* R.S.P.E.I. 1988, Cap. C-25.1 respecting the examination, inquiry, test or sample acquired, provided, obtained, made or received under this Act or the regulations. *2004,c.42,s.39; 2006,c.36,s.1; 2006,c.29,s.60.*

40. Copies of reports

The Director may, on receipt of a request in writing from the owner of a workplace who has entered into an agreement to sell the workplace, and on payment of the fee prescribed, provide to the purchaser or a person designated by the purchaser under an agreement of sale, copies of reports or orders of an officer made under this Act. *2004,c.42,s.40.*

41. Liability

No action or other proceeding for damages lies or shall be instituted against the Board, the Minister, the Director or an officer or worker of the Board, for any act or omission done or

omitted to be done in good faith in the exercise or the intended exercise of a function under this Act or the regulations. *2004,c.42,s.41.*

42. Obstruction of officers, etc.

No person shall

(a) hinder, obstruct or interfere with or attempt to hinder, obstruct or interfere with an officer in the exercise of his or her functions under this Act or the regulations;

(b) knowingly provide an officer with false information, or neglect or refuse to provide information required by an officer in the exercise of his or her functions under this Act or the regulations;

(c) interfere with monitoring equipment or devices in a workplace;

(d) knowingly

(i) hinder or interfere with a committee, committee member or representative in the exercise of functions under this Act,

(ii) provide a committee, committee member or representative with false information in the exercise of functions under this Act, or

(iii) hinder or interfere with a worker selected by the workers to represent them in the exercise of functions under this Act. *2004,c.42,s.42.*

43. Offences and penalties

(1) A person who contravenes or violates

(a) a provision of this Act or the regulations; or

(b) an order or requirement of an officer or the Director,

is guilty of an offence and is liable on summary conviction to a fine of not more than $250,000 or to imprisonment for one month, or to both.

Continuing offences

(2) In addition to a fine imposed under subsection (1), the court may impose a fine not exceeding $5,000 for each day during which the offence continues.

Corporate officers

(3) Where a corporation contravenes or violates

(a) a provision of this Act or the regulations; or

(b) an order or requirement of an officer or the Director,

any officer, director, manager or agent of the corporation who directed, authorized, assented to, acquiesced or participated in the contravention or violation is guilty of an offence and is liable on summary conviction to the penalties set out in subsections (1) and (2). *2004,c.42,s.43; 2006,c.36,s.2.*

43.1 Limitation period

A prosecution for an offence under this Act shall be commenced within two years of

(a) the date upon which the offence is alleged to have been committed; or

(b) the date upon which an officer becomes aware of the alleged offence,

whichever is later. *2013,c.44,s.1.*

44. Additional penalties

(1) Subject to subsection (2), where a person is convicted of an offence under this Act or the regulations, in addition to any other penalty that may be imposed by a court under this Act or the regulations, 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 the facts relating to the offence;

(b) directing the offender to pay to the Board an amount to be used by the Board for public education regarding

(i) safe conduct of the activity related to the offence that was committed, and

(ii) principles of responsibility for safe working conditions provided for in this Act;

(c) directing the offender to submit to the Director such information respecting the activities of the offender as the court considers appropriate;

(d) directing the offender to perform community service, on the terms and conditions stated in the order;

(e) directing payment by the offender of such security for the performance of the order as the court considers appropriate; and

(f) imposing such other conditions on the offender as the court considers appropriate.

Maximum amount

(2) The total of money payable under subsection (1) shall not exceed the maximum amount payable under section 43.

Director may publish

(3) Where an offender fails to comply with an order made under clause (1)(a), the Director may publish the facts in accordance with the order.

Debts to the Board

(4) The following amounts constitute debts owing by the offender to the Board and may be recovered in the Supreme Court:

(a) an amount payable by the offender under clause (1)(b);

(b) the costs of publication by the Director under subsection (3). *2004,c.42,s.44.*

45. Posting written materials

An owner, employer or a constructor shall keep in a prominent place accessible to the workers

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

(b) such notices and reports as are required by this Act and the regulations to be posted. *2004,c.42,s.45.*

REGULATIONS

46. Regulations

(1) Subject to the approval of the Lieutenant Governor in Council, the Board may make regulations

(a) setting out the occupational health and safety standards to be established at workplaces or classes of workplaces;

(b) respecting the presence of persons other than workers at a workplace;

(c) establishing conditions as to the design, construction and use of a plant or undertaking to protect the occupational health and safety of workers;

(d) prohibiting or controlling the manufacture, supply or use of plant equipment or machinery;

(e) prohibiting or controlling the manufacture, supply, storage, handling or use of a substance or material to protect the occupational health and safety of workers;

(f) imposing requirements with respect to the testing, labelling or examination of a substance or material that may affect the occupational health and safety of workers;

(g) controlling or prohibiting the employment in specified circumstances of a person or class of persons where it is necessary to protect their occupational health and safety;

(h) excluding a workplace, a worker or a class of worker from the application of section 28;

(i) restricting the performance of certain tasks to persons having certain qualifications;

(j) requiring the making of arrangements by employers for the prevention of occupational disease and for securing the occupational health of workers, including the making of arrangements for medical examinations and health surveys;

(j.1) respecting measures that employers shall establish and implement to prevent and investigate harassment in the workplace;

(k) requiring the making of arrangements by employers for monitoring the atmospheric or other conditions of workplaces;

(l) respecting standards for the design, construction, operation, maintenance and safety features of any item, device, material, equipment or machinery used at a workplace;

(m) prohibiting the use of any item, device, material, equipment or machinery used at a workplace that does not meet the prescribed standards;

(n) requiring employers to provide, and workers to use, any safety device, item, material, equipment or machinery used at a workplace;

(o) providing for the prohibition of the sale, rental or lease of any device, equipment, item, machinery or material used at a workplace that does not meet the required standards;

(p) requiring and governing medical facilities or first aid facilities to be located at workplaces;

(q) requiring the use of protective equipment or devices by workers or classes of workers;

(r) respecting the fees payable by employers for inspections required by this Act;

(s) respecting forms for use under this Act;

(t) respecting records to be kept by employers;

(u) giving the Board, for the purposes of conducting inspections, examinations, inquiries or tests under this Act, the authority to contract for qualified services and to provide remuneration for those services;

(v) respecting confidentiality protection for trade secrets;

(w) respecting procedures with respect to disclosure of information which is considered a trade secret;

(x) exempting certain workplaces from the application of this Act or the regulations;

(y) respecting any notices or reports an owner, employer, or constructor is required to post;

(z) respecting training for committee members and representatives;

(aa) ensuring employers permit committee members and representatives to take time off to receive such training as is prescribed by regulation;

(bb) respecting the fee payable by the owner of a workplace who has entered into an agreement to sell the workplace;

(bb.1) defining terms used but not defined in this Act;

(cc) generally for carrying out the purposes of this Act.

Adoption of codes

(2) A regulation made under subsection (1) may adopt by reference in whole or in part, as amended from time to time and with such changes as the Board considers necessary, any code or standard, or any regulation made by any other government in Canada or recognized technical organization, and may require compliance with any code, standard or regulation so adopted. *2004,c.42,s.46; 2015,c.37,s.3; 2018,c.45,s.8.*

TRANSITIONAL

47. Transitional provisions

Notwithstanding the repeal of the former Act, on the coming into force of this Act,

(a) the person whose appointment as the Director of Occupational Health and Safety under subsection 5(3) of the former Act is in effect is deemed to have been appointed as the Director of Occupational Health and Safety under subsection 5(1) of this Act;

(b) a person whose appointment as an occupational health and safety officer or employee under subsection 5(3) of the former Act is in effect is deemed to be appointed respectively as an occupational health and safety officer or worker under subsection 5(2) of this Act;

(c) an order made by an officer under subsection 8(1) or (4) of the former Act is deemed to have been made under subsection 8(1) or (4) of this Act;

(d) an appeal to the Director under subsection 11(1) of the former Act that has been commenced but not concluded is deemed to have been commenced under subsection 10(1) of this Act;

(e) an order made by the Director under subsection 11(4) of the former Act is deemed to have been made under subsection 10(5) of this Act;

(f) an appeal under subsection 12(1) of the former Act that has been commenced but not concluded is deemed to have been made under subsection 11(1) of this Act;

(g) a decision made under subsection 12(5) of the former Act is deemed to have been made under subsection 11(5) of this Act;

(h) a person whose appointment as a member of the Occupational Health and Safety Advisory Council under subsection 19.4(3) of the former Act that is in effect is deemed to have been appointed as a member of the Occupational Health and Safety Advisory Council under subsection 22(2) of this Act;

(i) a policy prepared under subsection 19.5(1) of the former Act is deemed to have been prepared under subsection 24(1) of this Act;

(j) a program prepared under subsection 19.6(1) of the former Act is deemed to have been prepared under subsection 23(1) of this Act;

(k) a person appointed as a committee member under subsection 19.7(1) or (2) of the former Act is deemed to have been appointed as a committee member under subsection 25(1) or (2) of this Act;

(l) a person appointed as a representative under subsection 19.8(1) or (2) of the former Act is deemed to have been appointed as a representative under subsection 26(1) or (2) of this Act; and

(m) a list prepared under subsection 24(1) of the former Act is deemed to have been prepared under subsection 32(1) of this Act. *2004,c.42,s.47.*