



# Labour

## Information on **OCCUPATIONAL HEALTH AND SAFETY**

### 1 SUMMARY

#### INTRODUCTION

In the past 10 years, in both federal and provincial jurisdictions, approximately 1,000 Canadian workers have died each year as a result of work place accidents or occupational diseases. Although the injury rate is declining, the annual costs for compensation to injured workers has been billions of dollars.

Work place health and safety is a serious matter. Part II of the *Canada Labour Code* relates to occupational health and safety and reflects the desire to reduce work place injuries and accidents in federal jurisdiction.

The objective of this overview is to offer a simplified version of the major responsibilities for occupational health and safety for both employers and employees subject to the *Canada Labour Code*. It is not a legal reference. Anyone wishing to interpret the law should refer to the *Canada Labour Code* and to the corresponding *Canada Occupational Health and Safety Regulations*.

#### 1. What is the purpose of the legislation?

The purpose of Part II of the *Canada Labour Code* is to prevent work place related accidents and injury including occupational diseases.

When considering the control of work place hazards, preventative measures should consist first of the elimination of the hazards, then the reduction of the hazards and finally, where necessary, the provision of personal protective equipment.

---

## 2. To whom does the legislation apply?

Occupational health and safety in the federal jurisdiction has been consolidated under Part II of the *Canada Labour Code*. The Code applies to the following interprovincial and international industries:

- railways;
- highway transport;
- telephone and telegraph systems;
- pipelines;
- canals;
- ferries, tunnels and bridges;
- shipping and shipping services;
- radio and television broadcasting and cable systems;
- airports;
- banks;
- grain elevators licensed by the Canadian Grain Commission, and certain feed mills and feed warehouses, flour mills, and grain seed cleaning plants;
- the federal public service **and persons employed by the public service** and about 40 Crown corporations and agencies;
- employment in the operation of ships, trains and aircraft; and
- the exploration and development of petroleum on lands subject to federal jurisdiction.

**NOTE:** Part II of the *Canada Labour Code* does not apply to certain undertakings regulated by the *Nuclear Safety and Control Act*.

## 3. What are the employees' rights under the Code?

The *Canada Labour Code* provides an employee with three rights:

- The Right to Know;
- The Right to Participate;
- The Right to Refuse Dangerous Work.

### ***The Right to Know***

Through the provisions of the Code, employees have the right to be informed of known or foreseeable hazards in the work place and to be provided with the information, instruction, training and supervision necessary to protect their health and safety.

---

This right to know is strengthened by ensuring that the methods of communication are appropriate for all employees, including employees with special needs.

Through their health and safety committees or representatives, employees are given the right to have access to government or employer reports relating to the health and safety of employees, but do not have access to medical records of any person except with that person's consent.

### ***The Right to Participate***

As health and safety representatives or committee members, employees have the right and the responsibility to participate in identifying and correcting job-related health and safety concerns.

Employers who employ 300 or more employees are required to establish a policy health and safety committee. The purpose of the policy committee is to handle issues that are organization-wide in nature. Because these types of issues go beyond a single work place, there is a need for a more strategic or global approach for their resolution.

Part II of the *Canada Labour Code* further provides for employee participation through the use of an internal complaint resolution process. This internal complaint resolution process is explained in greater detail in Pamphlet #3.

### ***The Right to Refuse Dangerous Work***

An employee, at work, has the right to refuse dangerous work if he or she has reasonable cause to believe that:

- a condition exists at work that presents a danger to himself or herself;
- the use or operation of a machine or thing presents a danger to the employee or a co-worker; and
- the performance of an activity constitutes a danger to the employee or to another employee.

In order for an employee to be protected by the Code when exercising the right to refuse, the employee must follow the proper procedure. The right to refuse dangerous work is explained in greater detail in Pamphlet #4.

## **4. Are health and safety committees or representatives required for all work places?**

Yes. In work places where there are 19 employees or fewer or in work places exempted from the committee requirement, there must be a health and safety representative.

Work place health and safety committees must be established in work places where there are 20 or more employees. At least half of the committee members must be employees who do not have managerial functions.

Policy health and safety committees must be established where an employer has 300 or more employees. The intent of this committee is to take a more strategic approach to health and safety in an organization by dealing with global issues.

## 5. Can work places be exempt from these requirements?

The only specific exemption to the work place committee requirement applies to employees working on a ship or aircraft.

The Minister of Labour may also exempt other organizations from the requirement to establish a work place health and safety committee where it is felt that the nature of the work performed is relatively free from risks to health and safety. However, where such exemptions are granted, there must be a health and safety representative.

Number of Employees	What is Required	Exemptions
0 to 19	Health and Safety Representative	no
20 and up	Work Place Health and Safety Committee	possible
300 and up	Policy Health and Safety Committee	no

## 6. How are committee members or representatives selected?

The way committee members or representatives are selected depends on whether the work place is unionized or non-unionized.

The chart below explains the methods for choosing committee members and representatives.

	Unionized Work Place	Non-unionized Work Place
Health and Safety Representative	Selected by Union	Selected by Employees
Work Place Health and Safety Committee (Employee Members)	Selected by Union	Selected by Employees
Policy Health and Safety Committee (Employee Members)	Selected by Union	Selected by Employees
The employer chooses the <b>management</b> representatives for both the policy and work place committees.		

For further information on policy committees, work place committees and health and safety representatives please refer to pamphlets 6A, 6B and 6C respectively.

---

## 7. What are the powers of a health and safety officer?

In the context of the *Canada Labour Code*, a “health and safety officer” is a person appointed by the Minister of Labour. The health and safety officer may, as part of his or her duties:

- enter any work place at any reasonable time;
- conduct, or have conducted, tests, examinations, inquiries, investigations or inspections;
- take or remove for analysis, samples of any material or substance;
- be accompanied or assisted by any person and bring any equipment the officer deems necessary;
- take or remove for testing, material or equipment;
- take photographs and make sketches of the work place; and
- meet with any person in private, or when requested by the person, in the presence of legal counsel or union representation.

### ***The health and safety officer also has the power to direct ...***

- the employer, to ensure a certain area or thing is not disturbed pending the officer’s investigation;
- any person, not to disturb a certain area or thing pending the officer’s investigation;
- the employer, to produce documents and information relating to the health and safety of the employees or the work place and to allow the officer to make copies of those documents;
- the employer or an employee, to make or provide statements respecting working conditions, material, and equipment affecting the health and safety of employees in the work place; and
- the employer or an employee, to accompany the officer while the officer is in the work place.

A health and safety officer may issue directions whether or not the officer is in the work place. As a final step, a health and safety officer will recommend prosecution for non-compliance with his or her direction.

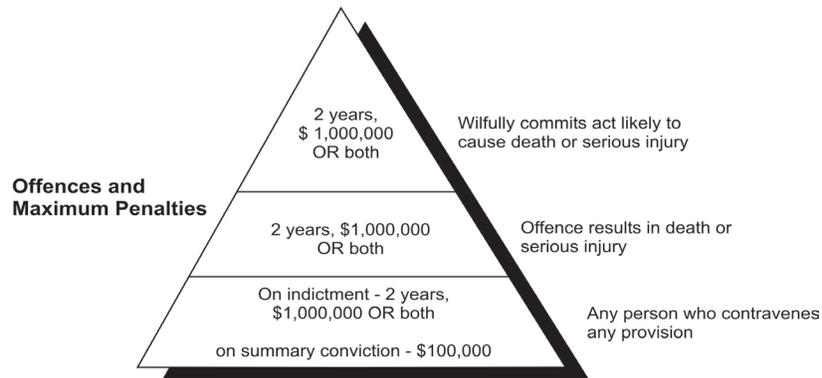
## 8. Can a health and safety officer’s direction be appealed?

Yes. An employer, employee or trade union that feels aggrieved by an officer’s direction may, within 30 days of the direction being issued, request in writing, that an appeals officer review the officer’s direction.

---

## 9. What types of penalties can be imposed for contravening the Code?

The *Canada Labour Code* and its regulations can be enforced through fines according to the seriousness of the offence. Below is a diagram of the offences and penalties.



**On a prosecution of a person for a contravention of any provision, except paragraph 125.(1)(c) and (z.10) and (z.11) it is a defence for the person to prove that the person exercised due care and diligence to avoid the contravention.**

## INJUNCTION

The Minister of Labour may seek an injunction where there is serious risk or where a fine would not be an effective way of achieving compliance.

---

*The number, 1-800-641-4049, offers 24-hour bilingual information on the Directorate's programs and services and provides a single point of contact for our clients and Canadians*

You can order this publication by contacting:

**Publishing Services**

Human Resources and Skills Development Canada  
140 Promenade du Portage  
Portage IV, 10<sup>th</sup> Floor  
Gatineau, Quebec  
K1A 0J9

Fax: 819-953-7260

Online: <http://www12.hrsdc.gc.ca>

This document is available on demand in multiple formats (large print, Braille, audio cassette, audio CD, e-text diskette, e-text CD, or DAISY), by contacting 1 800 O-Canada (1-800-622-6232). If you use a teletypewriter (TTY), call 1-800-926-9105.

© Her Majesty the Queen in Right of Canada, 2012

**Print**

Cat. No.: HS23-1/1-2011

ISBN: 978-1-100-54031-3

**PDF**

Cat. No.: HS23-1/1-2011E-PDF

ISBN: 978-1-100-19566-7

For information regarding reproduction rights, please contact Public Works and Government Services Canada at: 613-996-6886 or [droitdauteur.copyright@tpsgc-pwgsc.gc.ca](mailto:droitdauteur.copyright@tpsgc-pwgsc.gc.ca)

---

**Notes:**

---