



Province of Alberta

# **ENSURING SAFETY AND CUTTING RED TAPE ACT, 2020**

Statutes of Alberta, 2020  
Chapter 32

Assented to December 9, 2020

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*Bill 47*

## **ENSURING SAFETY AND CUTTING RED TAPE ACT, 2020**

### **Chapter 32**

*(Assented to December 9, 2020)*

HER MAJESTY, by and with the advice and consent of the  
Legislative Assembly of Alberta, enacts as follows:

#### **Heroes' Compensation Act**

**Enacts SA 2020 cH-7.8**

**1** The *Heroes' Compensation Act* as set out in Schedule 1 is enacted and may be cited as chapter H-7.8 of the Statutes of Alberta, 2020.

#### **Occupational Health and Safety Act**

**Enacts SA 2020 cO-2.2**

**2** The *Occupational Health and Safety Act* as set out in Schedule 2 is enacted and may be cited as chapter O-2.2 of the Statutes of Alberta, 2020.

#### **Workers' Compensation Act**

**Amends RSA 2000 cW-15**

**3(1)** The *Workers' Compensation Act* is amended by this section.

**(2)** Section 1(1) is amended

**(a)** by repealing clause (e.1);

**(b)** by adding the following after clause (k):

(k.1) "Fairness Review Officer" means the Fairness Review Officer designated under section 23.1;

**(c)** by adding the following after clause (w):

(w.1) “review body” means a review body appointed under section 9.3;

**(3) Sections 2(2) and 5(1.1) are repealed.**

**(4) Section 9.2(1) is amended by striking out “Fair Practices Office” and substituting “Fairness Review Officer”.**

**(5) The following is added after section 9.2:**

### **Part 1.1 Review Body**

#### **Review body**

**9.3(1)** The Board shall appoint a review body for the purposes of section 9.4 consisting of not fewer than 3 persons, one of whom shall be designated as the chair.

**(2)** The chair of the review body may designate one or more members of the review body to conduct a review on behalf of the review body.

**(3)** When one or more members of the review body are designated to conduct a review, a decision made by them in respect of that review is a decision of the review body.

#### **Reviews**

**9.4(1)** A person who

- (a) has a direct interest in a claim for compensation in respect of which a claims adjudicator has made a decision, or an assessment, made under this Act, and
- (b) is dissatisfied with
  - (i) the decision of the claims adjudicator, or
  - (ii) a decision made in respect of the assessment, referred to in clause (a)

may, within one year after the day the decision of the claims adjudicator was issued or the decision in respect of the assessment was made, seek a review of the decision by the review body.

**(2)** An administrative penalty under section 152.1 is considered to be an assessment for the purposes of this section.

**(3)** On receiving a request for a review, the Board shall cause all the information in the Board’s possession in respect of the matter that is the subject of the review to be reviewed by the review body.

- (4)** Unless otherwise allowed by the review body, a request for a review must be in writing and must
- (a) identify the decision or issue that is to be reviewed,
  - (b) if the review is sought with respect to a claim for compensation, set out the date and place of the accident and the claim number,
  - (c) if the review is sought with respect to an assessment, set out the date that the decision that is to be reviewed was made, and
  - (d) set out the reasons why the decision or issue should be reviewed.
- (5)** The review body must receive the representations, if any, made on behalf of any one or more of the interested parties, and may
- (a) if the review was sought with respect to a claim for compensation, confirm, vary or reverse any decision made in respect of the claim, and
  - (b) if the review was sought with respect to an assessment, confirm, vary or reverse the decision.
- (6)** For the purposes of a review of a claim for compensation,
- (a) the review body may require the worker or the worker's dependant, if the dependant is claiming compensation, to undergo a medical examination by a physician not employed by the Board and, in that case, section 38 applies, and
  - (b) a claims adjudicator or a physician referred to in section 42 or 43 who made a decision, or was involved in a matter or issue, that is the subject of the review is not eligible to conduct the review.
- (7)** An employee of the Board who was involved in an assessment is not eligible to conduct a review in respect of the assessment.
- (8)** The review body may grant interim relief while a decision or issue is under review in accordance with policies established by the Board, which must be publicly available.
- (9)** The one-year period referred to in subsection (1) may be extended, with or without conditions, if the chair of the review body or the chair's delegate considers there is a justifiable reason for doing so.

(10) There is no appeal from a decision made under subsection (9).

**(6) Section 10 is amended**

(a) **by repealing subsection (1)(d);**

(b) **by adding the following after subsection (1):**

(1.1) The Lieutenant Governor in Council may designate one or more appeal commissioners as vice-chairs.

(c) **by repealing subsection (3) and substituting the following:**

(3) Subject to the *Alberta Public Agencies Governance Act* and any applicable regulations under that Act, the chief appeals commissioner and any appeals commissioners designated as vice-chairs may be appointed for maximum terms of 5 years and are eligible for reappointment for additional terms of not more than 5 years each.

(d) **in subsection (4) by striking out** “a temporary appeals commissioner” **and substituting** “the chief appeals commissioner and an appeal commissioner designated as a vice-chair”.

**(7) Section 12(3) is amended by striking out** “quarterly”.

**(8) Section 13.1 is amended**

(a) **in subsection (1) by repealing clauses (a) and (b) and substituting the following:**

(a) appeals from decisions of a review body under section 9.4,

(b) **by repealing subsections (7.1), (7.2) and (7.3).**

**(9) Section 13.2 is amended**

(a) **by repealing subsection (1)(a) and (b) and substituting the following:**

(a) a decision of a review body under section 9.4, or

(b) **by repealing subsections (2), (3) and (4) and substituting the following:**

(2) The Appeals Commission shall consider the following in an appeal:

- (a) if the appeal is from a decision under section 9.4 with respect to a claim for compensation, the records of the claims adjudicator and the review body relating to the claim;
- (b) if the appeal is from a decision under section 9.4 with respect to an assessment, the records and information available to the review body relating to the matter under consideration;
- (c) if the appeal is from a determination of the Board under section 21(3), the records and information available to the Board relating to the matter under consideration.

**(c) in subsection (8)**

- (i) **by striking out** “section 46 or 120” **and substituting** “section 9.4”;
- (ii) **by striking out** “2 years” **and substituting** “one year”.

**(10) The following is added after section 13.5:**

**Programs and other functions**

**13.6** The Appeals Commission may

- (a) establish programs directed at providing independent advice, assistance and advocacy services to employers and to workers and their dependants, and
- (b) exercise any other powers and carry out any other functions provided for in the regulations.

**(11) Part 3.1 is repealed and the following is substituted:**

**Part 3.1**  
**Fairness Review Officer**

**Fairness Review Officer**

**23.1(1)** The board of directors of the Board shall designate an employee of the Board as the Fairness Review Officer and define the Fairness Review Officer’s role and mandate.

**(2)** The Fairness Review Officer shall report to the board of directors at the times directed by the board of directors.

**Powers of Fairness Review Officer**

**23.2** The Fairness Review Officer may, in accordance with the role and mandate established by the board of directors, review and make recommendations to the Board

- (a) relating to any matter under this Act, for the purpose of determining administrative fairness and processes used to reach decisions, or
- (b) relating to a breach of the Code of Rights and Conduct in which a worker, dependant or employer is or may be aggrieved.

**(12) Section 24 is amended**

- (a) by repealing subsection (6) and substituting the following:**

**(6)** If a worker suffers disablement from or because of any occupational disease and at some time during the 12 months preceding the disablement was employed in an industry or process or performed activities deemed by the regulations to have caused that disease or condition, the disease or condition is deemed to have been caused by that employment or activity, unless the contrary is shown.

- (b) in subsection (7) by striking out** “or a disease or condition referred to in subsection (6)(b)”;
- (c) in subsection (8) by striking out** “and the Committee”.

**(13) Section 24.2 is amended**

- (a) in subsection (2) by adding** “a member of” **before** “any other class of worker”;
- (b) in subsection (3) in the portion preceding clause (a) by striking out** “worker” **and substituting** “first responder, correctional officer, emergency dispatcher or member of any other class of worker prescribed by the regulations”.

**(14) Section 24.3 is repealed and the following is substituted:**

**Occupational disease review**

**24.3** The Minister shall ensure that a review of the provisions of this Act and the regulations relating to occupational diseases is conducted within 10 years after the coming into force of this section and within every 10 years after that.

**(15) Section 38(1) is amended by striking out** “Medical Panels Office” **and substituting** “Board”.

**(16) Sections 45, 46 and 46.1 are repealed.**

**(17) Section 46.2 is amended**



**(a) by repealing subsections (1), (2) and (3) and substituting the following:**

**(1)** The Lieutenant Governor in Council may appoint a Medical Panels Commissioner.

**(b) in subsection (4) by striking out “and any Deputy Medical Panels Commissioner may be appointed for a maximum term of 3 years and are” and substituting “may be appointed for a maximum term of 3 years and is”;**

**(c) in subsection (5) by striking out “and a Deputy Medical Panels Commissioner”;**

**(d) by repealing subsection (7) and substituting the following:**

**(7)** In addition to the Medical Panels Commissioner’s other powers, duties and functions under this Act, the Medical Panels Commissioner is responsible for the operation of the medical panel process in accordance with the regulations.

**(e) by repealing subsection (8);**

**(f) by repealing subsection (9) and substituting the following:**

**(9)** The remuneration payable to the Medical Panels Commissioner shall be paid by the Minister and be reimbursed to the Crown by the Board from the Accident Fund.

**(9.1)** The remuneration payable to the members of a medical panel, at the rates determined by the Medical Panels Commissioner, and the costs of carrying on the operations of a medical panel shall be paid out of the Accident Fund.

**(g) by repealing subsection (10);**

**(h) by repealing subsection (11) and substituting the following:**

**(11)** No action may be maintained or brought against the Medical Panels Commissioner, an agent of the Medical Panels Commissioner, a medical panel or a member of a medical panel in respect of any act or decision done or made in the honest belief that it was within the jurisdiction of the Medical Panels Commissioner or a medical panel.

**(18) Section 46.3 is amended**

- (a) in subsection (3) by striking out “section 46” and substituting “section 9.4”;**
- (b) in subsections (5) and (6)(a) by striking out “Medical Panels Office” and substituting “Medical Panels Commissioner”;**
- (c) in subsection (7)**
  - (i) by striking out “Medical Panels Office” and substituting “Medical Panels Commissioner”;**
  - (ii) by striking out “and subject to section 46.4”;**
- (d) by repealing subsection (11).**

**(19) Section 46.4 is repealed.****(20) Section 46.5 is amended**

- (a) in clause (a) by striking out “and the Medical Panels Office”;**
- (b) in clause (b) by striking out “the Medical Panels Office, the Medical Panels Commissioner, a Deputy Medical Panels Commissioner” and substituting “the Medical Panels Commissioner”;**
- (c) in clause (d) by striking out “the members of a medical panel” and substituting “physicians who participate in proceedings before a medical panel and authorizing the Medical Panels Commissioner to determine the rates of the remuneration and expenses”;**
- (d) by repealing clauses (h) to (j);**
- (e) in clause (k) by striking out “46.4” and substituting “46.3”.**

**(21) Section 56 is amended**

- (a) by repealing subsection (2) and substituting the following:**
  - (2) If an accident causes injury to a worker and results in an impairment of earning capacity, the Board shall estimate the impairment of earning capacity resulting from the accident and shall pay periodic compensation to the worker based on**

the estimated loss of net earnings as determined by the Board in accordance with subsection (3).

- (b) **in subsection (3)(a) by adding** “as calculated by the Board” **after** “at the time of the accident”;
- (c) **in subsection (4) by striking out** “Subject to section 88.1, the” **and substituting** “The”;
- (d) **in subsection (6) by adding** “subject to the maximum payable under subsection (18)” **after** “as determined by the Board”;
- (e) **in subsection (14) by striking out** “if the worker” **and substituting** “if the worker’s employment”;
- (f) **by adding the following after subsection (15):**

**(15.1)** Notwithstanding subsections (13) and (14), if the worker’s employment is subsequently terminated, or the work is withdrawn by the employer, due to the worker’s egregious conduct the Board shall continue to pay periodic compensation to the worker in accordance with section 13(a) as if the worker was continuing to work.

- (g) **by repealing subsection (18) and substituting the following:**

**(18)** In calculating net earnings for the purposes of this Act with respect to accidents occurring before September 1, 2018 or after January 1, 2021, no regard may be taken of the aggregate gross annual earnings of the worker in excess of an amount prescribed by order of the Board.

**(19)** An order referred to in subsection (18) applies only in respect of an accident that occurs on or after the day specified in the order.

**(22) Section 59 is repealed and the following is substituted:**

**Cost of living adjustments**

**59(1)** Commencing for the 2021 calendar year and for subsequent calendar years, the Board may by order, for the purpose of maintaining approximate parity with the cost of living, make adjustments in the amounts payable as compensation to persons who are receiving compensation under this Act or any predecessor of this Act in respect of permanent total disability, permanent partial disability or death of a worker.

(2) An order referred to in subsection (1) applies only to persons receiving compensation referred to in subsection (1) on the day specified in the order.

(3) An adjustment is subject to the maximum compensation payable under section 56 that is in effect on the day specified in the order referred to in subsection (1).

**(23) Part 5.1 is repealed.**

**(24) The heading to Part 6 is repealed and the following is substituted:**

### **Part 6 Vocational Rehabilitation and Duty to Cooperate**

**(25) The following is added after section 89:**

#### **Duties of worker to mitigate and cooperate**

**89.1** A worker shall

- (a) take all reasonable action to mitigate the worker's loss of earnings resulting from an injury, and
- (b) if the circumstances require, cooperate with the Board in the development of a vocational or other rehabilitation plan that is intended to return the worker to employment.

#### **Duty of employer to cooperate**

**89.2** An employer of an injured worker shall cooperate with the Board and with the worker in efforts to achieve the early and safe return of the worker to the worker's employment.

#### **Termination or reduction of compensation by the Board**

**89.3** If without good reason, a worker fails to cooperate in, or is not available for, a vocational or other rehabilitation program, the Board may reduce or suspend the compensation payable to that worker.

**(26) Section 99 is amended by striking out "section 90" and substituting "section 62".**

**(27) Section 103 is amended by striking out "prepare and deliver" wherever it occurs and substituting "provide".**

**(28) Section 106 is amended by striking out "prepare and forward" and substituting "provide".**

**(29) Section 109 is amended by striking out "prepare and deliver" wherever it occurs and substituting "provide".**

**(30) Section 110 is amended by striking out “prepare and deliver” and substituting “provide”.**

**(31) Sections 119, 120, 136(6) and 136.1(3) are repealed.**

**(32) The following is added after section 136.1:**

**Publication of grants**

**136.2** The Board shall publish on the Board’s website

- (a) the name of each recipient of a grant made under sections 136 or 136.1,
- (b) the purpose for which each grant will be used, and
- (c) the amount of each grant.

**(33) Section 147(4) is amended by striking out “, 46 or 120” and substituting “or 9.4”.**

**(34) Section 152.1 is amended**

- (a) in subsection (1) by striking out “88.1, 88.2(2)” and substituting “89.2”;**
- (b) in subsection (3) by striking out “Subject to sections 88.1(13) and 88.2(5), an” and substituting “An”.**

**(35) Section 153(1) is amended**

**(a) by adding the following after clause (k):**

- (k.1) respecting additional powers and functions of the Appeals Commission for the purposes of section 13.6(b);
- (k.2) respecting the ownership, custody, control, collection, use and disclosure of records, reports and information submitted to or created or acquired by the Appeals Commission, the chief appeals commissioner or an appeals commissioner;

**(b) in clause (l.3) by adding “, (3) or (4)” after “section 24.2(2)”;**

**(c) by adding the following after clause (l.3):**

- (l.4) respecting the establishment and maintenance of the roster referred to in section 38(1);
- (l.5) respecting the selection of a physician for the purpose of section 38(1);

- (1.6) subject to section 156(2), respecting anything that in this Act may be prescribed by the Lieutenant Governor in Council or done or prescribed by regulation;

**(36) The following is added after section 158:**

**Transitional re Ensuring Safety and Cutting Red Tape Act, 2020**

**158.1(1)** Section 13.2(1) to (4) as they read immediately before April 1, 2021 continue to apply with respect to a decision or determination referred to in section 13.2(1) made before April 1, 2021.

(2) Section 13.2(8) as it read immediately before April 1, 2021 continues to apply with respect to a decision or determination referred to in section 13.2(1) made on or after September 1, 2018 and before April 1, 2021.

(3) In subsection (4), “Fair Practices Commissioner” means the person who, immediately before April 1, 2021, was appointed as the Fair Practices Commissioner under section 23.1.

(4) A review referred to in section 23.2(1)(a) as it read immediately before April 1, 2021 that, immediately before April 1, 2021, had been commenced by the Fair Practices Commissioner and not concluded, terminates on April 1, 2021.

(5) If, immediately before April 1, 2021,

- (a) a request for a review under section 46 had been made to a review body appointed under section 45, or a request for a review under section 120 had been made to a review body appointed under section 119, and
- (b) the review body referred to in clause (a) had not acted under section 46(5)(b) or section 120(4)(b), as the case may be,

the request is referred to the review body appointed under section 9.3 and must be continued under section 9.4.

**(37) The following is added after section 158.1:**

**Transitional re PTSD presumptions**

**158.2** Section 24.2 as it read immediately before January 1, 2021 continues to apply with respect to an accident occurring on or after April 1, 2018 and before January 1, 2021.

**(38) Section 159 is repealed and the following is substituted:**

**Review of Act**

**159** The Minister shall, within 10 years after the coming into force of this section, and within every 10 years after that, appoint a review committee to review and report on all matters concerning the Act, the regulations and the administration of the Act and the regulations.

**Coming into Force****Coming into force**

**4(1)** Section 3, except subsections (10), (13), (21), (22), (26), (35)(a) and (37), has effect on April 1, 2021.

**(2)** Section 3(13), (21), (22) and (37) have effect on January 1, 2021.

**(3)** Section 3(26) has effect on the repeal of section 90 of the *Occupational Health and Safety Act, SA 2017 cO-2.1*.

**Schedule 1****HEROES' COMPENSATION ACT***Table of Contents*

- 1 Definitions
- 2 Administration of Act
- 3 Lump sum payment
- 4 Payment to Accident Fund
- 5 Entitlements to payments
- 6 Limitation on payments
- 7 Regulations
- 8 Consequential amendment

**Definitions**

**1** In this Act,

- (a) "accident" means an accident as defined in the *Workers' Compensation Act*;
- (b) "Accident Fund" means the Accident Fund as defined in the *Workers' Compensation Act*;
- (c) "Board" means The Workers' Compensation Board;
- (d) "child" means a child as defined in the *Workers' Compensation Act*;

- (e) “correctional officer” means a correctional officer as defined in section 24.2 of the *Workers’ Compensation Act*;
- (f) “dependant” means a dependant as defined in the *Workers’ Compensation Act*;
- (g) “dependent child” means a dependent child as defined in the *Workers’ Compensation Act*;
- (h) “first responder” means a first responder as defined in section 24.2 of the *Workers’ Compensation Act*;
- (i) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (j) “worker” means a correctional officer or first responder or an individual or class of individuals prescribed by the regulations.

**Administration of Act**

**2** The Board shall administer this Act and make lump sum payments under section 3(1) to the persons entitled to them.

**Lump sum payment**

**3(1)** Subject to section 6, when, on or after April 1, 2020, a worker dies as a result of an accident, the Board shall make a single lump sum payment of compensation in the amount of \$100 000 to the dependants of the worker in accordance with this section.

**(2)** For the purposes of this section, if at the time of the worker’s death there is both a spouse and an adult interdependent partner of the worker, then

- (a) if the spouse is a dependent spouse, the spouse is entitled to receive the lump sum payable under subsection (1), or
- (b) if the spouse is not a dependent spouse and the adult interdependent partner is a dependant, the adult interdependent partner is entitled to receive the lump sum payable under subsection (1).

**(3)** If a worker dies as a result of an accident and leaves dependent children but no dependent spouse or dependent adult interdependent partner, the lump sum payable under subsection (1) must be divided equally among the dependent children.

**(4)** If a worker dies as a result of an accident and leaves no dependent spouse or dependent adult interdependent partner or



dependent children, the lump sum payable under subsection (1) must be paid to the worker's estate.

(5) A lump sum payment made under subsection (1) is deemed to be a benefit paid under the *Workers' Compensation Act*.

#### **Payment to Accident Fund**

4 The sums required by the Board for the administration of this Act and for payments under section 3(1) must be paid to the Accident Fund from the General Revenue Fund.

#### **Entitlements to payments**

5 Entitlements to payments under section 3(1) shall be determined by the Board under this Act and under the *Workers' Compensation Act* with any necessary changes.

#### **Limitation on payments**

6 The total of all payments made annually under section 3(1) must not exceed \$1 500 000 or such greater amount as may be prescribed by the regulations.

#### **Regulations**

7(1) The Lieutenant Governor in Council may make regulations

- (a) prescribing individuals or classes of individuals as being workers;
- (b) respecting any matter that the Lieutenant Governor in Council considers necessary or advisable to carry out the intent of this Act.

(2) The Minister may make regulations prescribing an amount greater than \$1 500 000 for the purpose of section 6.

(3) A regulation made under subsection (2) may be restricted in its application to one or more years specified in the regulation.

#### **Amends SA 2017 cO-2.1**

8 Section 90(1) of the *Occupational Health and Safety Act* is amended by striking out "this Act" and substituting "this Act and the *Heroes' Compensation Act*".

## **Schedule 2**

### **OCCUPATIONAL HEALTH AND SAFETY ACT**

#### *Table of Contents*

- 1 Definitions
- 2 Purposes of this Act

**Part 1  
General Obligations**

- 3 Obligations of employers
- 4 Obligations of supervisors
- 5 Obligations of workers
- 6 Obligations of suppliers
- 7 Obligations of service providers
- 8 Obligations of contracting employers
- 9 Obligations of owners
- 10 Obligations of prime contractors
- 11 Obligations of temporary staffing agencies
- 12 Multiple obligations

**Part 2  
Health and Safety Committees,  
Representatives and Programs**

- 13 Joint health and safety committees
- 14 Health and safety representative
- 15 Inspection of work site with officer
- 16 Health and safety program

**Part 3  
Dangerous Work and Disciplinary Action**

- 17 Right to refuse dangerous work
- 18 Where disciplinary action prohibited
- 19 Disciplinary action complaint

**Part 4  
Acceptances, Allowances, Approvals,  
Inter-jurisdictional  
Recognitions and Licences**

- 20 Acceptances
- 21 Allowances
- 22 Approvals
- 23 Inter-jurisdictional recognition
- 24 Licences

**Part 5  
Minister and Staff**

- 25 Powers and duties of the Minister
- 26 Staff
- 27 Powers of a Director
- 28 Duties of officers

**Part 6**  
**Medical Examinations, Assessments and Reports**

- 29 Medical examination
- 30 Notice of findings
- 31 Medical report
- 32 Examination of workers exposed to hazards

**Part 7**  
**Compliance and Enforcement**

- 33 Serious injuries, illnesses, incidents and worker exposure to radiation
- 34 Inspection
- 35 Identification
- 36 Investigation
- 37 Hindering an officer
- 38 Order to ensure compliance
- 39 Stop work orders
- 40 Stop use orders
- 41 Director's authority
- 42 Enforcement of compliance with order
- 43 Awarding costs
- 44 Administrative penalties

**Part 8**  
**Appeals**

- 45 Appeal
- 46 Hearing of appeal

**Part 9**  
**Offences and Penalties**

- 47 Offences
- 48 Penalties
- 49 Additional powers of court to make directions
- 50 Effect of non-payment

**Part 10**  
**Information Exchange and Programs**

- 51 Agreements regarding research and educational programs
- 52 Advisors
- 53 Exchange of information
- 54 Publication of information about employers
- 55 Posting orders, reports, plans and procedures

- 56 Occupational health and safety surveillance program
- 57 Funded organizations
- 58 Designated organizations
- 59 Furthering occupational health and safety

### **Part 11 Regulations and Administration**

- 60 Lieutenant Governor in Council regulations
- 61 OHS Code
- 62 Provisions affecting the regulations and the OHS Code
- 63 Administration costs
- 64 Service of documents
- 65 Liability of officials
- 66 Act binds Crown

### **Part 12 Related and Transitional Provisions, Repeal and Coming into Force**

- 67 Dissolution of Occupational Health and Safety Advisory Council
- 68 Transitional — regulations
- 69 Transitional — acceptances, approvals and licences
- 70 Transitional — orders and administrative penalties
- 71 Transitional — investigation
- 72 Transitional — refusal of dangerous work and discriminatory action
- 73 Transitional — serious injuries and incidents
- 74 Transitional — Director review and appeal
- 75 Transitional — staff
- 76 Transitional — radiation protection
- 77 Repeal
- 78 Coming into force

#### **Definitions**

**1** In this Act,

- (a) “administrative penalty” means an administrative penalty required to be paid under section 44(1);
- (b) “appeal body” means the appeal body referred to in section 45(1);
- (c) “collective agreement” means an agreement in writing between an employer or an employers’ organization and a bargaining agent containing terms or conditions of employment, and may include one or more documents containing one or more agreements;

- (d) “competent” in relation to a person means adequately qualified, suitably trained and with sufficient experience to safely perform work without supervision or with only a minimal degree of supervision;
- (e) “construction work site” means a work site where any of the following activities are conducted:
  - (i) the building, demolition, repair, alteration, extension or renovation of a structure;
  - (ii) site development or building and repair of roads, highways, pipelines, sewage systems, drainage systems, electrical transmission lines or systems or telecommunication transmission lines or systems;
  - (iii) digging, working in or filling a trench or excavation;
  - (iv) land clearing, earth moving, grading, boring, drilling, abrasive blasting or concreting;
- (f) “contracting employer” means a person, partnership or group of persons who, through a contract, an agreement or ownership, directs the activities of one or more employers involved in work at a work site;
- (g) “custodian” means a person defined as a custodian under the *Health Information Act*;
- (h) “Director” means a person appointed under section 26 as a Director;
- (i) “Director of Medical Services” means a physician appointed under section 26 as a Director of Medical Services;
- (j) “disciplinary action” means any action or threat of action by a person that does or would adversely affect a worker with respect to any terms or conditions of employment;
- (k) “employer” means
  - (i) a person who is self-employed in an occupation,
  - (ii) a person who employs or engages one or more workers, including a person who employs or engages workers from a temporary staffing agency,
  - (iii) a person designated by an employer as the employer’s representative, or

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

danger, including but not limited to a chemical, biological or radiological hazard, to the health and safety of a worker exposed to it;

- (p) “hazard” means a situation, condition or thing that may be dangerous to health and safety;
- (q) “hazardous occupation” means an occupation in which a person works with asbestos, silica, coal dust or lead;
- (r) “hazardous work site” means a blasting area and an area of a work site where there is a reasonable chance that the airborne concentration of asbestos, silica, coal dust or lead exceeds or may exceed the occupational exposure limit for one or more of the substances under the OHS Code;
- (s) “health and safety program” means a co-ordinated system of procedures, processes and other measures that is designed to be implemented by organizations in order to promote continuous improvement in occupational health and safety;
- (t) “health and safety representative” means a worker representative designated under section 14;
- (u) “health services provider” means
  - (i) a health services provider under the *Health Information Act*, or
  - (ii) an individual or organization that reviews, interprets or assesses in an occupational setting
    - (A) results from any test performed on a bodily substance from an individual worker or group of workers,
    - (B) results from medical, health or biological monitoring of an individual worker or group of workers, or
    - (C) results from medical or health surveillance of an individual worker or group of workers;
- (v) “joint health and safety committee” means a committee established under section 13;
- (w) “licence” means a licence, certificate or permit issued under this Act;
- (x) “manufacturer’s specifications” means the written specifications, instructions or recommendations, if any, of the manufacturer of equipment, personal protective

equipment, harmful substance or explosive, that describes how the equipment, personal protective equipment, harmful substance or explosive are to be used, erected, installed, assembled, started, operated, handled, stored, stopped, calibrated, adjusted, maintained, repaired, dismantled or disposed of, including a manufacturer's instructions, operating or maintenance manual or drawings for the equipment, personal protective equipment, harmful substance or explosive;

- (y) "mine" means a mine designated in the OHS Code as a mine;
- (z) "mine site" means a mine site designated in the OHS Code as a mine site;
- (aa) "Minister" means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (bb) "notifiable disease" means a disease or a state of ill health designated by a Director of Medical Services as a notifiable disease;
- (cc) "occupation" means every occupation, employment, business, calling or pursuit over which the Legislature has jurisdiction, except
  - (i) farming and ranching operations that are specified in the OHS Code and in respect of which
    - (A) no wages, as defined in the *Employment Standards Code*, are paid to persons for the performance of farming or ranching work, or
    - (B) wages, as defined in the *Employment Standards Code*, are paid only to the following persons for the performance of farming or ranching work:
      - (I) shareholders of a corporation engaged in a farming or ranching operation of which all shareholders are family members of the same family;
      - (II) family members of a shareholder of a corporation engaged in a farming or ranching operation of which all shareholders are family members of the same family;



- (III) family members of a sole proprietor engaged in a farming or ranching operation;
  - (IV) family members of a partner in a partnership engaged in a farming or ranching operation where all partners are family members of the same family,
- and
- (ii) work in, to or around a private dwelling or any land used in connection with the dwelling that is performed by an occupant or owner who lives in the private dwelling, unless
    - (A) the work is performed for an employer who is not an occupant or owner who lives in the private dwelling, or
    - (B) the work is performed by a person who lives in the private dwelling and is employed by or on behalf of an occupant or owner who lives in the private dwelling;
  - (dd) “occupational disease” means a disease or state of ill health arising out of and directly related to an occupation;
  - (ee) “officer” means a Director or a person appointed under section 26 as an occupational health and safety officer;
  - (ff) “OHS Code” means the OHS Code made by the Minister under section 61(1), including any secondary code adopted or incorporated as referred to in section 61(2) that is relevant to the circumstances in question;
  - (gg) “oil and gas work site” means a work site where any of the following activities are conducted:
    - (i) oil and gas development, production, refining and processing;
    - (ii) the drilling and mining of, completion, recompletion or remedial treatment of an oil or gas well;
    - (iii) the supplementary operation performed or service provided that is necessary to the drilling of an oil or gas well;
    - (iv) work performed with a mobile workover or completion service rig;

- (v) geophysical operations in relation to oil and gas;
- (vi) construction and upgrading of oil and gas infrastructure;
- (vii) oil and gas pipeline construction and operation;
- (viii) oil and gas site abandonment, remediation and reclamation;
- (ix) bitumen and in situ heavy oil recovery;
- (hh) “owner” means the person who is registered under the *Land Titles Act* as the owner of the land on which work is being carried out or may be carried out, or the person who enters into an agreement with the owner to be responsible for meeting the owner’s obligations under this Act, the regulations and the OHS Code, but does not include a person who occupies land or premises used as a private residence unless a business, trade or profession is carried on in that premises;
- (ii) “personal protective equipment” means a thing used or worn by a person for protection of that person from health or safety hazards that may exist at a work site;
- (jj) “police officer” means a member of the Royal Canadian Mounted Police or a member of a municipal police service or any other police service established under the *Police Act*;
- (kk) “previous Act” means the *Occupational Health and Safety Act*, SA 2017 cO-2.1;
- (ll) “prime contractor” means the prime contractor for a work site referred to in section 10;
- (mm) “service provider” means a person who provides training, consultation, testing, program development, or other services in respect of any occupation or work site;
- (nn) “supervisor” means a person who has charge of a work site or authority over a worker;
- (oo) “supplier” means a person who sells, rents, leases, erects, installs or provides any tools, appliances, personal protective equipment or equipment or who sells or otherwise provides any harmful substance or explosive to be used by a worker in respect of any occupation or work site;

- (pp) “temporary staffing agency” means a person who retains workers and deploys or facilitates the placement of those workers with other employers;
- (qq) “the regulations” means the regulations under section 60;
- (rr) “violence”, whether at a work site or work-related, means the threatened, attempted or actual conduct of a person that causes or is likely to cause physical or psychological injury or harm, and includes domestic or sexual violence;
- (ss) “welfare” means the conditions or facilities, in or near a work site, provided for the feeding, rest, hygiene or sanitary requirements of a worker;
- (tt) “worker” means a person engaged in an occupation, including a person who performs or supplies services for no monetary compensation for an organization or employer, but does not include
- (i) a student in learning activities conducted by or within an educational institution for which no compensation is paid to the student, or
  - (ii) except for the purpose of section 5(1)(a) and (b), the following persons engaged in a farming and ranching operation specified in the OHS Code:
    - (A) a person to whom no wages, as defined in the *Employment Standards Code*, are paid for the performance of farming or ranching work;
    - (B) a person referred to in clause (cc)(i)(B)(I) to (IV) to whom wages, as defined in the *Employment Standards Code*, are paid for the performance of farming or ranching work;
- (uu) “work site” means a location where a worker is, or is likely to be, engaged in any occupation and includes any vehicle or mobile equipment used by a worker in an occupation.

**Purposes of this Act****2** The purposes of this Act are

- (a) the promotion and maintenance of the highest degree of physical, psychological and social well-being of workers,
- (b) to prevent work site incidents, injuries, illnesses and diseases,

- (c) the protection of workers from factors and conditions adverse to their health and safety, and
- (d) to ensure that all workers have
  - (i) the right to be informed of work site hazards and the means to eliminate or control those hazards,
  - (ii) the right to meaningful participation in health and safety activities pertaining to their work and work site, including the ability to express health and safety concerns,
  - (iii) the right to refuse dangerous work, and
  - (iv) the ability to work without being subject to disciplinary action for exercising a right or fulfilling a duty imposed by this Act, the regulations or the OHS Code.

## **Part 1**

### **General Obligations**

#### **Obligations of employers**

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

- (a) the health, safety and welfare of
  - (i) workers engaged in the work of that employer,
  - (ii) those workers not engaged in the work of that employer but present at the work site at which that work is being carried out, and
  - (iii) other persons at or in the vicinity of the work site whose health and safety may be materially affected by identifiable and controllable hazards originating from the work site,
- (b) that the workers engaged in the work of that employer are aware of their rights and duties under this Act, the regulations and the OHS Code,
- (c) that none of the employer's workers are subjected to or participate in harassment or violence at the work site,
- (d) that the employer's workers are supervised by a person who
  - (i) is competent, and

- (ii) is familiar with this Act, the regulations and the OHS Code that apply to the work performed at the work site,
  - (e) that the joint health and safety committee, if there is one, or the health and safety representative, if there is one, complies with all requirements imposed on the joint health and safety committee or the health and safety representative under this Act, the regulations or the OHS Code, and
  - (f) that health and safety concerns raised by workers, supervisors and the joint health and safety committee, if there is one, or the health and safety representative, if there is one, are resolved in a timely manner.
- (2)** Every employer shall ensure that workers engaged in the work of that employer are adequately trained in all matters necessary to perform their work in a healthy and safe manner.
- (3)** If work is to be done that may endanger a worker, the employer shall ensure that the work is done
- (a) by a worker who is competent to do the work, or
  - (b) by a worker who is working under the direct supervision of a worker who is competent to do the work.
- (4)** Every employer shall keep readily available information related to work site hazards, controls, work practices and procedures and provide that information to
- (a) the joint health and safety committee, if there is one, or health and safety representative, if there is one, at the work site,
  - (b) the workers, and
  - (c) the prime contractor, if there is one.
- (5)** Every employer shall ensure that current paper or downloaded or stored electronic copies of this Act, the regulations and the OHS Code are readily available for reference by workers, the joint health and safety committee, if there is one, and the health and safety representative, if there is one.
- (6)** Every employer who is a self-employed person engaged in an occupation but is not in the service of an employer for that occupation shall comply with all requirements imposed on an employer, with any necessary modifications.

(7) Every employer shall cooperate with any person exercising a duty imposed by this Act, the regulations and the OHS Code.

**Obligations of supervisors**

**4** Every supervisor shall

- (a) as far as it is reasonably practicable for the supervisor to do so,
  - (i) take all precautions necessary to protect the health and safety of every worker under the supervisor's supervision,
  - (ii) ensure that a worker under the supervisor's supervision works in the manner and in accordance with the requirements of this Act, the regulations and the OHS Code, and
  - (iii) ensure that none of the workers under the supervisor's supervision are subjected to or participate in harassment or violence at the work site,
- (b) advise every worker under the supervisor's supervision of all known or reasonably foreseeable hazards to health and safety in the area where the worker is performing work,
- (c) report to the employer a concern about an unsafe or harmful work site act that occurs or has occurred or an unsafe or harmful work site condition that exists or has existed, and
- (d) cooperate with any person exercising a duty imposed by this Act, the regulations and the OHS Code.

**Obligations of workers**

**5(1)** Every worker shall, while engaged in an occupation,

- (a) take reasonable care to protect the health and safety of the worker and of other persons at or in the vicinity of the work site while the worker is working,
- (b) cooperate with the worker's supervisor or employer or any other person for the purposes of protecting the health and safety of
  - (i) the worker,
  - (ii) other workers engaged in the work of the employer, and
  - (iii) other workers not engaged in the work of that employer but present at the work site at which that work is being carried out,

- (c) at all times, when the nature of the work requires, use all devices and wear all personal protective equipment designated and provided for the worker's protection by the worker's employer or required to be used or worn by the worker by this Act, the regulations and the OHS Code,
- (d) refrain from causing or participating in harassment or violence,
- (e) report to the employer or supervisor a concern about an unsafe or harmful work site act that occurs or has occurred or an unsafe or harmful work site condition that exists or has existed,
- (f) participate in any training provided by the employer, and
- (g) cooperate with any person exercising a duty imposed by this Act, the regulations and the OHS Code.

(2) A worker who is not competent to perform work that may endanger the worker or others shall not perform the work except under the direct supervision of a worker who is competent to perform the work.

**Obligations of suppliers**

**6(1)** Every supplier shall, as far as it is reasonably practical for the supplier to do so,

- (a) ensure that any personal protective equipment or equipment that the supplier supplies is in safe operating condition,
- (b) ensure that any harmful substance or explosive the supplier supplies is safe to use, when used in accordance with the manufacturer's specifications,
- (c) if the supplier has responsibility under an agreement to maintain equipment, ensure that the equipment is maintained in a safe condition, in accordance with the manufacturer's specifications, if any, and in compliance with this Act, the regulations and the OHS Code,
- (d) provide a notice to all of the employers supplied by the supplier with personal protective equipment or equipment, or to the purchasers or lessees of the equipment, when the supplier becomes aware or ought reasonably to be aware that the equipment that was supplied or is about to be supplied does not comply with a standard prescribed under the regulations or the OHS Code, and

(e) provide a notice to all of the employers supplied by the supplier with a harmful substance or explosive when the supplier becomes aware or ought reasonably to be aware that the harmful substance or explosive that was supplied or is about to be supplied does not comply with a standard prescribed under the regulations or the OHS Code.

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

(3) Every supplier shall, as far as it is reasonably practicable for the supplier to do so,

(a) ensure that any personal protective equipment or equipment is supplied with a written copy of the manufacturer's specifications and any other instructions for safe use, as applicable, if such specifications and instructions exist, and

(b) ensure that any harmful substance or explosive the supplier supplies is supplied with a written copy of the manufacturer's specifications and instructions for safe use, as applicable, if such specifications and instructions exist.

(4) Every supplier shall cooperate with any person exercising a duty imposed by this Act, the regulations and the OHS Code.

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

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

(2) Every service provider shall

(a) ensure that all services provided in respect of a work site comply with the Act, the regulations and the OHS Code,

(b) ensure that services provided to a person to meet an obligation in the Act, the regulations or the OHS Code are completed by workers who are competent to provide those services,

(c) ensure that, as far as it is reasonably practicable for the service provider to do so, no person at or in the vicinity of a work site is endangered as a result of the service provider's activity, and



- (d) cooperate with any person exercising a duty imposed by this Act, the regulations and the OHS Code.

**Obligations of contracting employers**

**8(1)** Every contracting employer who directs the activities of an employer involved in work at a work site shall ensure, as far as it is reasonably practicable to do so, that the employer complies with this Act, the regulations and the OHS Code in respect of that work site.

**(2)** Every contracting employer shall ensure that the owner and any employer, prime contractor, supplier or service provider on a work site is informed of any existing or potential work site hazards that may affect workers or other persons at the work site.

**(3)** Every contracting employer shall cooperate with a person exercising a duty imposed by this Act, the regulations and the OHS Code.

**Obligations of owners**

**9(1)** Every owner shall ensure, as far as it is reasonably practicable to do so, that the land, infrastructure and any building or premises on the land is provided and maintained in a manner that does not endanger the health and safety of workers or any other person.

**(2)** Every owner shall ensure that any hazard identified by the owner is communicated to all workers, employers, contracting employers, prime contractors, suppliers and service providers that are conducting work activities, or may be reasonably anticipated to conduct work activities, in relation to the land, infrastructure and any building or premises on the land.

**(3)** Every owner shall cooperate with any person exercising a duty imposed by this Act, the regulations and the OHS Code.

**Obligations of prime contractors**

**10(1)** Every construction work site and oil and gas work site or a work site or class of work sites designated by a Director must have a prime contractor if there are 2 or more employers involved in work at the work site.

**(2)** The person in control of the work site referred to in subsection (1) shall designate in writing a person as the prime contractor of the work site.

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

- (4) Subsections (2) and (3) do not apply to a person who is in control of a work site if that work site is a private dwelling that is occupied by that person.
- (5) The person in control of any work site not referred to in subsection (1) where there are 2 or more employers involved in work at the work site may enter into an agreement in writing with a person to designate that person as the prime contractor of the work site.
- (6) The prime contractor shall ensure that the name of the prime contractor is posted in a conspicuous place at the work site.
- (7) The prime contractor shall
- (a) establish, as far as it is reasonably practicable to do so, a system or process that will ensure compliance with this Act, the regulations and the OHS Code in respect of the work site, including a system or process to ensure cooperation between the employer and workers in respect to health and safety,
  - (b) designate a person in writing for the purposes of ensuring cooperation between the employer and workers in respect to health and safety and implementing a system to address the matters set out in section 13(6), and
  - (c) conduct the prime contractor's own activities in such a way as to ensure, as far as it is reasonably practicable to do so, that no person is exposed to hazards arising out of, or in connection with, activities at the work site.
- (8) If a requirement in the Act, the regulations or the OHS Code imposes a duty on an employer with respect to equipment, work site infrastructure or an excavation and the equipment or infrastructure is designed, constructed, erected or installed, or the excavation is conducted by or on behalf of a prime contractor, the prime contractor shall comply with the requirement as if the requirement were directly imposed on the prime contractor.
- (9) Subsection (8) does not relieve the employer or prime contractor from fulfilling other responsibilities under this Act, the regulations and the OHS Code.
- (10) Every prime contractor shall ensure that the owner and any employer, supplier or service provider on a work site is informed of any existing or potential work site hazards that may affect workers or other persons at the work site.

(11) Every prime contractor shall cooperate with any person exercising a duty imposed by this Act, the regulations and the OHS Code.

**Obligations of temporary staffing agencies**

**11(1)** Every temporary staffing agency shall ensure, as far as it is reasonably practicable for the temporary staffing agency to do so,

- (a) that the worker to be assigned to another employer is suitable to perform the task for which the worker is to be assigned,
- (b) that the worker is equipped with any necessary personal protective equipment prior to deployment to the other employer, or will be so equipped prior to commencing work activities with the other employer, and
- (c) that the other employer is capable of ensuring the health and safety of the worker.

(2) Every temporary staffing agency shall cooperate with any person exercising a duty imposed by this Act, the regulations and the OHS Code.

**Multiple obligations**

**12(1)** In this section, “function” means the function of prime contractor, owner, contracting employer, employer, supervisor, service provider, supplier, worker or temporary staffing agency.

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

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

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

(4) If a requirement of this Act, the regulations or the OHS Code imposes a duty on an employer or a worker, a person who is self-employed in an occupation shall, as far as it is reasonably practicable for the person to do so, comply with the duty.

## Part 2

### Health and Safety Committees, Representatives and Programs

#### Joint health and safety committees

**13(1)** For the purposes of ensuring cooperation between the employer and workers in respect to health and safety, an employer shall, after consultation with any union that is a certified bargaining agent or has acquired bargaining rights on behalf of the employer's workers, establish a joint health and safety committee

- (a) if that employer regularly employs 20 or more workers, or
- (b) at any work site designated by a Director.

**(2)** If there are 20 or more regularly employed workers in total from 2 or more employers at a work site, all employers shall, after consultation with any union that is a certified bargaining agent or has acquired bargaining rights on behalf of the employer's workers, coordinate the establishment of a joint health and safety committee for that work site.

**(3)** Subsection (2) does not apply to a work site where a prime contractor has been designated.

**(4)** A joint health and safety committee shall, in accordance with the OHS Code, consist of

- (a) workers who represent the workers engaged in the work of the employer and are not associated with the management of the work,
- (b) where applicable, workers who represent the workers engaged in the work of the employer and are not associated with the management of the work and who are represented by any union that is a certified bargaining agent or has acquired bargaining rights on behalf of those workers, and
- (c) persons who represent the employer.

**(5)** The number of persons on a joint health and safety committee who represent the employer shall not exceed in total the number of worker representatives on the committee.

**(6)** The duties of a joint health and safety committee include the following:

- (a) the receipt, consideration and disposition of concerns respecting the health and safety of workers;

- (b) participation in the employer's hazard assessment;
- (c) the making of recommendations to the employer respecting the health and safety of workers;
- (d) review of the employer's work site inspection documentation.

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

#### **Health and safety representative**

**14(1)** For the purposes of ensuring cooperation between the employer and workers in respect to health and safety, an employer shall, after consultation with any union that is a certified bargaining agent or has acquired bargaining rights on behalf of the employer's workers, designate a worker, who is not associated with the management of the employer, as the health and safety representative

- (a) if that employer regularly employs 5 to 19 workers, or
- (b) at any work site designated by a Director.

(2) If there are 5 to 19 workers in total from 2 or more employers regularly employed at a work site, all employers shall coordinate the designation of a health and safety representative for that work site.

(3) Subsection (2) does not apply to a work site where a prime contractor has been designated.

(4) The health and safety representative shall, in cooperation with a representative of the employer, perform the same duties, with any necessary modifications, as set out for the joint health and safety committees in section 13(6).

(5) A health and safety representative shall carry out all duties and functions during normal working hours.

(6) An employer that is required to designate a health and safety representative under this section may establish a joint health and safety committee under section 13 instead of designating a health and safety representative.

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

**15** When an officer inspects a work site, the officer may request any member of the joint health and safety committee, their designates or a health and safety representative to be present at that inspection.

**Health and safety program**

**16** An employer who regularly employs 20 or more workers or on the direction of a Director shall, subject to the OHS Code, establish and implement a health and safety program.

**Part 3  
Dangerous Work and  
Disciplinary Action****Right to refuse dangerous work**

**17(1)** In this section, “undue hazard” in relation to any occupation includes a hazard that poses a serious and immediate threat to the health and safety of a person.

**(2)** Subject to this section and section 5, a worker may refuse to work or to do particular work at a work site if the worker believes on reasonable grounds that there is an undue hazard at the work site or that the work constitutes an undue hazard to the worker’s health and safety or to the health and safety of another worker or another person.

**(3)** When exercising a right to refuse to work or to do particular work under subsection (2), a worker shall ensure, as far as it is reasonable to do so, that the refusal does not endanger the health and safety of any other person.

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

**(5)** An employer who receives a report under subsection (4) shall, as soon as possible, inform the joint health and safety committee, if there is one, or the health and safety representative, if there is one, of the report.

**(6)** The employer may require a worker who has made a report under subsection (4) to remain at the work site and may assign the worker temporarily to other work assignments that the worker is reasonably capable of performing.

**(7)** A temporary assignment under subsection (6), if there is no loss in pay, is not disciplinary action for the purposes of section 18.

**(8)** If the employer does not remedy the alleged undue hazard immediately, the employer shall, after discussing the matter with the worker who refuses to work or to do particular work under subsection (2), immediately inspect the alleged undue hazard.

(9) The employer required to inspect under subsection (8) shall take any action necessary to remedy any undue hazard, or ensure that such action is taken.

(10) When a worker has refused to work or to do particular work under subsection (2), the employer shall not request or assign another worker to do the work until the employer has determined that the work does not constitute an undue hazard to the health and safety of any person or that an undue hazard does not exist.

(11) On completing an inspection under subsection (8), the employer shall prepare a written report of the refusal to work, the inspection and the action taken, if any, under subsection (9).

(12) The employer shall give a copy of the report completed under subsection (11) to the worker who refused work under subsection (2), the joint health and safety committee if there is one and the health and safety representative if there is one.

(13) If a worker who receives a report under subsection (12) is of the opinion that an undue hazard still exists, the worker may notify an officer.

(14) Where the employer becomes aware that a notification to an officer was made under subsection (13), the employer shall advise any other worker that the employer assigns to do the work, in writing, of

- (a) the first worker's refusal,
- (b) the reasons for the refusal, and
- (c) the reason why, in the opinion of the employer, the work does not constitute an undue hazard to the health and safety of any person or that an undue hazard is not present.

(15) An officer who receives a notification under subsection (13) shall investigate the matter and prepare a written record of the investigation and the officer's findings, and shall give the joint health and safety committee if there is one, the health and safety representative if there is one, the worker and the employer a copy of the record.

**Where disciplinary action prohibited**

**18** No person shall take any disciplinary action against a worker by reason of that worker acting in compliance with this Act, the regulations, the OHS Code or an order issued under this Act.

**Disciplinary action complaint**

**19(1)** A worker who has reasonable cause to believe that the worker has been subjected to disciplinary action in contravention of section 18 may file a complaint with an officer within 180 days after the alleged contravention occurs, but not afterwards.

**(2)** An officer who receives a complaint under subsection (1) shall, subject to subsection (3), prepare a written report of the worker's complaint, the investigation and the officer's findings and shall give the worker and the employer a copy of the report.

**(3)** An officer may refuse to investigate a complaint where the officer is of the opinion that the complaint is without merit, or is frivolous, trivial, vexatious, filed with improper motives or otherwise an abuse of process.

**(4)** If an officer refuses under subsection (3) to investigate a complaint under subsection (1), the officer shall notify the worker in writing.

**(5)** Where an officer has refused under subsection (3) to investigate a complaint under subsection (1), the worker who made the complaint may, within 30 days of receiving notice of the officer's refusal to investigate, request that a Director review the refusal.

**(6)** Upon the review referred to in subsection (5), a Director may

- (a) confirm or revoke the officer's refusal, or
- (b) refer the matter to another officer for a determination in accordance with this section.

**(7)** An officer shall refuse to accept a complaint made by a worker who is bound by a collective agreement.

**(8)** If, in the opinion of the officer, disciplinary action has occurred in contravention of section 18, the officer may in writing order the person who contravened the section to do one or more of the following:

- (a) cease the disciplinary action;
- (b) reinstate the worker to the worker's former employment under the same terms and conditions under which the worker was formerly employed;
- (c) pay the worker not more than the equivalent of wages and benefits that the worker would have earned if the worker had not been subjected to disciplinary action;



- (d) remove any reprimand or other reference to the matter from the worker's employment records;
- (e) take other measures to prevent recurrence.

**(9)** If the worker had worked elsewhere while the dismissal or disciplinary action had been in effect, those wages earned or benefits acquired elsewhere shall be deducted from the amount payable to the worker under subsection (8)(c).

**(10)** If an officer determines that disciplinary action has been taken against a worker who has acted in compliance with this Act, the regulations, the OHS Code or an order issued under this Act,

- (a) there is a presumption in favour of the worker that the disciplinary action was taken against the worker because the worker acted in compliance with this Act, the regulations, the OHS Code or an order issued under this Act, and
- (b) the onus is on the person who contravened section 18 to establish that the disciplinary action was taken against the worker for a reason other than that the worker acted in compliance with this Act, the regulations, the OHS Code or an order issued under this Act.

## **Part 4**

### **Acceptances, Allowances, Approvals, Inter-jurisdictional Recognitions and Licences**

#### **Acceptances**

**20(1)** A Director may issue in writing an acceptance to a person or class of persons if, in the Director's opinion, an alternative tool, appliance, personal protective equipment, equipment, standards, work process, first aid service or first aid supplies or equipment at a work site provides equal or greater protection than that provided for by the OHS Code for persons affected by the tool, appliance, personal protective equipment, equipment, standards, work process, first aid service or first aid supplies or equipment.

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

**(3)** A Director may compel a person to provide the Director with any information that the Director determines is necessary for considering whether to issue an acceptance including, without limitation,

- (a) a statement of why it is appropriate to issue an acceptance, and
- (b) specific details about the alternative tool, appliance, personal protective equipment, equipment, standards, work process, first aid service or first aid supplies or equipment that a Director needs to determine whether the alternative gives workers equal or greater protection than the original legislative requirement.

(4) An acceptance is in effect only during the period prescribed in it and, notwithstanding anything in this Act or the OHS Code, during that period the terms, conditions or requirements set out in it apply with respect to the tool, appliance, personal protective equipment, equipment, standards or work process at the work site to which the acceptance applies.

(5) A Director shall prescribe in the acceptance the duration of the acceptance.

(6) A person or class of persons who is issued an acceptance shall ensure that the acceptance or the original legislative requirement is complied with.

(7) A Director may vary, suspend or revoke the acceptance at any time.

(8) The *Regulations Act* does not apply to an acceptance issued by a Director.

#### **Allowances**

**21(1)** A Director may, by order, allow a person or class of persons to vary from any provision of the OHS Code if the Director is satisfied that no person's health or safety is materially affected by the allowance.

(2) The Director may impose any terms or conditions in connection with the allowance that the Director considers necessary and those terms and conditions are part of the allowance.

(3) The Director shall prescribe in the allowance the duration of the allowance.

(4) A person or class of persons referred to in subsection (1) shall ensure that the allowance or the original legislative requirement is complied with.

(5) The Director may vary, suspend or revoke the allowance at any time.

(6) The *Regulations Act* does not apply to an allowance issued by a Director.

### Approvals

**22(1)** A Director may, in accordance with the regulations or the OHS Code, issue an approval to any person provided the person meets any terms or conditions that the Director considers necessary to maintain the health or safety of a person.

(2) A Director may compel a person to provide the Director with any information that the Director determines is necessary for considering whether to issue an approval including, without limitation,

- (a) a statement of why it is appropriate to issue an approval, and
- (b) specific details about the circumstances and work site a Director needs to determine whether the approval should be granted

(3) A Director may impose terms and conditions the Director considers necessary on the approval and those terms and conditions are part of the approval.

(4) A person who is issued an approval shall ensure that the approval or the original legislative requirement is complied with.

(5) The Director shall prescribe in the approval the duration of the approval.

(6) The Director may vary, suspend or revoke the approval at any time.

(7) The *Regulations Act* does not apply to an approval issued by a Director.

### Inter-jurisdictional recognition

**23(1)** Notwithstanding the standards required to be followed and equipment required at a work site as specified by this Act, the regulations or the OHS Code, a Director may issue a recognition of an alternate standard, personal protective equipment or equipment that complies with the requirements in another Canadian jurisdiction or the requirements under an agreement entered into between Alberta and another Canadian jurisdiction, if, in the Director's opinion, such an alternate standard, personal protective equipment or equipment is appropriate to the Alberta conditions.

(2) The recognition may be subject to such terms and conditions as the Director considers appropriate and those terms and conditions are part of the recognition.

(3) A person to whom a recognition applies shall ensure that the recognition or the original legislative requirement is complied with.

(4) The Director may vary, suspend or revoke the recognition at any time.

(5) The *Regulations Act* does not apply to a recognition issued by a Director.

#### Licences

**24(1)** A licence may be issued in accordance with the OHS Code.

(2) A Director may, subject to the OHS Code, cancel or suspend a licence.

## Part 5 Minister and Staff

### Powers and duties of the Minister

**25** The Minister

- (a) is responsible for occupational health and safety, generally, and with the maintenance of reasonable standards for the protection of the health and safety of workers in Alberta,
- (b) is responsible for the administration of this Act, the regulations and the OHS Code,
- (c) shall review this Act and its administration or designate a body to do so at any time but at least once every 10 years and publish a report,
- (d) shall publish a plan for the review of the OHS Code every 3 years,
- (e) may, after consulting with such representatives of employers and of workers in the industries that will be affected, as the Minister considers appropriate, submit from time to time to the Government such recommendations as the Minister considers appropriate for the making of the OHS Code,
- (f) may provide persons and organizations concerned with the purposes of this Act with information and advice pertaining to its administration and to the protection of the health and safety of workers generally,
- (g) may prepare and maintain, or cause to be prepared and maintained, illness, death and incident statistics relating to workers and self-employed persons, and do so either alone or in conjunction with The Workers' Compensation Board,

other government ministries or any other agency, commission or organization, and

- (h) may do such other things in connection with health and safety for the purposes of carrying out the provisions of this Act, the regulations and the OHS Code and the provisions of any other Act or regulations the administration for which the Minister has responsibility.

#### **Staff**

**26(1)** In accordance with the *Public Service Act*, there may be appointed one or more Directors, Directors of Medical Services, officers and any other employees necessary for the administration of this Act.

**(2)** The Minister may, in writing, designate

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

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

**27** A Director

- (a) may issue and grant acceptances, allowances, approvals, inter-jurisdictional recognitions and licences in accordance with sections 20, 21, 22, 23 and 24,
- (b) subject to section 31, may require a person to provide any information in the form and manner acceptable to the Director that the Director needs to perform duties or exercise powers under this Act, the regulations and the OHS Code,
- (c) has all the powers of an officer as set out in this Act, and
- (d) may perform such other functions as the Minister may direct for the proper administration of this Act, the regulations and the OHS Code.

#### **Duties of officers**

**28** An officer may

- (a) make such inspections, investigations and inquiries and carry out such tests as are deemed necessary to ascertain whether compliance is being made with the provisions of this Act, the regulations and the OHS Code, and

- (b) carry out such other duties as may be assigned to officers under this Act, the regulations and the OHS Code.

## **Part 6**

### **Medical Examinations, Assessments and Reports**

#### **Medical examination**

**29(1)** A Director of Medical Services, for the purposes of determining

- (a) the extent of any injury suffered by a worker injured in an incident that occurred in respect of that worker's occupation, or
- (b) whether a worker is suffering from an occupational disease that is related to that worker's occupation, may require that worker to be medically examined by a physician chosen by a Director of Medical Services or by the worker's physician.

**(2)** An employer shall pay the cost for a medical examination of a worker under subsection (1) and any wages and benefits that the worker would have received for working during those normal hours of employment that were spent by that worker in being examined or going to or returning from that examination.

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

#### **Notice of findings**

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

#### **Medical report**

**31(1)** A physician or other health care professional who performs or supervises a medical examination of a worker as required under sections 29 and 32 or the OHS Code shall, on the request of a Director of Medical Services, disclose any medical reports that a Director of Medical Services may require for the purpose of enforcement of this Act, the regulations and the OHS Code.

**(2)** A physician, nurse or first aid attendant who attends a worker who became ill or was injured while engaged in an occupation shall, on the request of a Director of Medical Services, disclose any

reports that a Director of Medical Services may require for the purpose of enforcement of this Act, the regulations and the OHS Code.

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

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

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

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

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

- (a) medical reports, records or results;
- (b) results from the medical, health or biological monitoring of a worker or a group of workers;
- (c) results from medical or health surveillance of a worker or a group of workers;
- (d) notification of a diagnosis of a notifiable disease;
- (e) any other record that the Director of Medical Services requires to be produced.

**Examination of workers exposed to hazards**

**32(1)** If a worker is employed in a hazardous occupation or at a hazardous work site, a Director of Medical Services may

- (a) require the worker's employer, within 30 days after the commencement of the worker's employment, to register with a Director the worker's name and the location of the work site where the worker is employed,
- (b) require the worker's employer to send the worker for regular medical examinations by a physician with knowledge and expertise in occupational medicine, or as acceptable to the Director of Medical Services,
- (c) prescribe the type and frequency of the medical examinations,
- (d) prescribe the form and content of medical records to be compiled with respect to that worker, and
- (e) prescribe the period of time for which those medical records must be maintained.

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

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

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

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

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

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



## Part 7 Compliance and Enforcement

### Serious injuries, illnesses, incidents and worker exposure to radiation

**33(1)** When an injury or incident described in subsection (2) occurs at a work site or an illness described in subsection (2) occurs in connection with a work site, the prime contractor or, if there is no prime contractor, the employer shall report the time, place and nature of the injury, illness or incident to a Director as soon as possible.

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

- (a) an injury, illness or incident that results in the death of a worker,
- (b) an injury, illness or incident in which there is reason to believe the worker has been or will be admitted to a hospital beyond treatment in an emergency room or urgent care facility,
- (c) an unplanned or uncontrolled explosion, fire or flood that causes a serious injury or illness or that has the potential of causing a serious injury or illness,
- (d) the collapse or upset of a crane, derrick or hoist, and
- (e) the collapse or failure of any component of a building or structure necessary for the structural integrity of the building or structure.

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

**(4)** The prime contractor or, if there is no prime contractor, the employer shall make a report as soon as possible to a Director of the time, place and nature of any worker exposure to radiation in excess of the maximum limits prescribed in the OHS Code.

**(5)** If an incident occurs where

- (a) the incident had a likelihood of causing a serious injury or illness, and
- (b) there is reasonable cause to believe that corrective action may need to be taken to prevent recurrence,

the prime contractor or, if there is no prime contractor, the employer shall conduct an investigation in accordance with subsection (6).

**(6)** If an injury, illness or incident referred to in subsection (2) or (3) or worker exposure referred to in subsection (4) occurs at a work site, the prime contractor or, if there is no prime contractor, the employer shall

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

**(7)** The prime contractor or employer who prepared the report referred to in subsection (6)(b) shall retain the report for at least 2 years after the injury, illness, incident or worker exposure at the work site.

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

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

- (a) attending to persons that are ill, injured or killed,

- (b) preventing further injuries, illnesses or incidents, and
- (c) protecting property that is endangered as a result of the injury, illness or incident.

**Inspection**

**34(1)** For the purposes of this Act, an officer may

- (a) at any reasonable hour and without warrant, enter into or on any work site and inspect that work site except for a premises used as a private dwelling,
- (b) subject to section 31(6), require the production of any records, books, plans or other documents, including electronic documents, that relate to the health and safety of workers and may examine them, make copies of them or remove them temporarily for the purpose of making copies,
- (c) use data storage, information processing or retrieval devices or systems that are used by an employer in order to examine records, books, plans or other documents,
- (d) require any person to provide the officer with all reasonable assistance, including using any computer hardware or software or any other data storage, processing or retrieval device or system to produce information,
- (e) inspect, seize or take samples of any material, product, equipment or other thing being produced, used or found in or on the work site that is being inspected,
- (f) cause any material, product, equipment or other thing taken pursuant to clause (e) to be dismantled or subjected to any process or test, but not in such manner as to damage or destroy it, unless under the circumstances damage or destruction thereto is unavoidable or necessary,
- (g) bring along equipment or materials needed and be accompanied and assisted by a person who has special, expert or professional knowledge of a matter relevant to the inspection,
- (h) make tests and take photographs, measurements or recordings in respect of any work site,
- (i) require the employer or a person designated by the employer to demonstrate the use of any machinery, personal protective equipment, equipment, appliance or thing at a work site, and

- (j) interview and obtain statements from persons at the work site or persons not located at the work site who have information related to the health and safety of workers at the work site.

**(2)** Notwithstanding subsection (1)(a), an officer may enter and examine a room or place used as a private dwelling that is a work site only if

- (a) the owner or person in possession of it consents to the entry and examination, or
- (b) the entry and examination is authorized by a judge under subsection (3).

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

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

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

**(4)** When an officer

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

or

- (b) seizes or takes samples of any material, product, equipment or other thing under subsection (1)(c), the officer shall
  - (i) give to the person from whom those items were seized or taken a receipt for them, and

- (ii) on that person's request, return those items to that person when they have served the purposes for which they were seized or taken.

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

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

- (a) to prove non-compliance with this section in an action or proceeding under this Act,
- (b) to prove the commission of an offence under section 47(d) in an action or proceeding under this Act,
- (c) to prove the giving of contradictory evidence in an action or proceeding under this Act, or
- (d) as evidence in an appeal under section 45(2)(a), (c), (d) or (e).

#### **Identification**

**35(1)** Every person at a work site shall, on request by an officer, provide proof of identity satisfactory to the officer, including the name of the person's employer and the person's role at the work site.

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

#### **Investigation**

**36(1)** If an injury or incident occurs at a work site or an illness occurs in connection with a work site, an officer may

- (a) initiate an investigation of the injury, illness or incident,
- (b) attend at the scene of the injury, illness or incident and make any inquiries that the officer considers necessary to determine the cause of the injury, illness or incident and the circumstances related to the injury, illness or incident,
- (c) enter any place or area at a work site where the injury or incident occurred or in connection with which the illness

occurred where the officer believes information relating to the injury, illness or incident exists,

- (d) require the production of any records, books, plans or other documents, including electronic documents, and examine them, make copies of them or seize them,
- (e) use data storage, information processing or retrieval devices or systems that are used by an employer in order to examine records, books, plans or other documents, including electronic documents, and
- (f) exercise any authority under section 34.

**(2)** Every person present when an injury or incident occurred or who has information relating to the injury, illness or incident shall, on the request of an officer, provide to the officer any information respecting the injury, illness or incident that the officer requests.

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

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

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

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

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

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

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

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

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

- (a) to prove non-compliance with this section in an action or proceeding under this Act,
- (b) to prove the commission of an offence under section 47(d) in an action or proceeding under this Act,
- (c) to prove the giving of contradictory evidence in an action or proceeding under this Act, or
- (d) as evidence in an appeal under section 45(2)(a), (c), (d) or (e).

(8) A police officer may assist an officer in carrying out the officer's duties under this section if the officer so requests.

#### **Hindering an officer**

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

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

**38** When an officer is of the opinion that a person is not complying with this Act, the regulations or the OHS Code, the officer may in writing order the person to take such measures specified in the order, within the time limits specified in the order, as the officer considers necessary to ensure such compliance.

#### **Stop work orders**

**39(1)** When an officer is of the opinion that a danger to the health and safety of a worker exists in respect of that worker's employment, the officer may do one or more of the following:

- (a) order the work or any part of it that is taking place to be stopped forthwith;
- (b) order any worker or other person present to leave the work site forthwith;
- (c) in writing order the worker, prime contractor, contracting employer, supervisor, employer, supplier or service provider to take measures specified by the officer that the officer considers necessary for the purpose of removing the source of the danger or to protect any person from the danger.

**(2)** When an officer is of the opinion that activities that involve, or are likely to involve, a danger to the health and safety of workers are being carried on, or are about to be carried on, by workers of the same employer at more than one work site, the officer may order one or more of the following:

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

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

#### **Stop use orders**

**40(1)** When an officer is of the opinion that personal protective equipment, equipment, a harmful substance or an explosive being used or that may be used at a work site

- (a) is not safe, or
- (b) does not comply with the regulations or the OHS Code,

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



(2) No person shall sell, rent, lease or otherwise transfer personal protective equipment, equipment, a harmful substance or an explosive that is subject to an order under subsection (1).

(3) When an officer is of the opinion that a supplier is supplying personal protective equipment, equipment, a harmful substance or an explosive that

- (a) is not safe, or
- (b) does not comply with the regulations or the OHS Code,

the officer may in writing order the supplier to stop supplying that personal protective equipment, equipment, harmful substance or explosive for use by any worker.

#### **Director's authority**

**41** A Director may revoke or vary an order made under section 38, 39 or 40 or an administrative penalty issued under section 44.

#### **Enforcement of compliance with order**

**42** When

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

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

#### **Awarding costs**

**43** On an application under section 34(5), 42, 45(10) or 64(6)(a)(v), b(v) or (c)(v), the Court of Queen's Bench may make any award as to costs that it considers proper.

#### **Administrative penalties**

**44(1)** If an officer is of the opinion that a person

- (a) has contravened a provision of this Act, the regulations or the OHS Code,
- (b) has failed to comply with an order made under this Act, the regulations or the OHS Code,
- (c) has failed to comply with a term, condition or requirement of an acceptance issued under this Act,

- (d) has failed to comply with a term, condition or requirement of an allowance issued under this Act,
- (e) has failed to comply with a term, condition or requirement of an approval issued under this Act,
- (f) has failed to comply with a term, condition or requirement of an inter-jurisdictional recognition issued under this Act, or
- (g) makes a false statement or gives false or misleading information to an officer,

the officer may by notice in writing given to that person require that person to pay to the Crown within the time specified in the notice an administrative penalty in respect of each contravention in the amount set out in the notice.

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

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

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

(4) A notice of administrative penalty may be given within 2 years after the alleged contravention or failure to comply occurs, but not afterwards.

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

## Part 8 Appeals

### Appeal

**45(1)** The Labour Relations Board under the *Labour Relations Code* is the appeal body for the purpose of this Act.

**(2)** A person

- (a) to whom an order is issued under section 38, 39 or 40 or in relation to whom an order is varied by a Director under section 41,
- (b) who is given a notice of administrative penalty under section 44 or in relation to whom an administrative penalty is varied by a Director under section 41,
- (c) whose licence is cancelled or suspended,
- (d) who has received a record under section 17(15),
- (e) who has received a report under section 19(2), or
- (f) who has received an order under section 19(8),

may appeal the order, administrative penalty, cancellation or suspension, the findings in the record referred to in clause (d), the findings in the report referred to in clause (e) or the order referred to in clause (f) to the appeal body.

**(3)** An appeal under subsection (2) must be commenced by serving a notice of the appeal on the appeal body within 30 days of being served or given notice of the order, administrative penalty, cancellation or suspension, record or report.

**(4)** The Minister is deemed to be a party to the proceeding for the purpose of an appeal under this section and has the same rights with respect to an appeal as any other party to the proceeding.

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

- (a) in the case of an appeal of an order referred to in subsection (2)(a), confirm, revoke or vary the order, or
  - (i) with respect to an order issued by an officer under section 38, 39 or 40, remit the order back to the officer for reconsideration, and
  - (ii) with respect to an order varied by a Director under section 41, remit the order back to the Director or officer for reconsideration,
- (b) in the case of an appeal of an administrative penalty, confirm, revoke or vary the administrative penalty, or

- (i) with respect to an administrative penalty imposed by an officer under section 44, remit the matter back to the officer for reconsideration, and
  - (ii) with respect to an administrative penalty varied by a Director under section 41, remit the matter back to the Director or officer for reconsideration,
- (c) in the case of an appeal of the cancellation or suspension of a licence,
- (i) confirm the cancellation or suspension,
  - (ii) reinstate the cancelled licence,
  - (iii) substitute a suspension for the cancellation,
  - (iv) remove or vary the suspension,
  - (v) add conditions to the licence, or
  - (vi) remit the matter back to the Director for reconsideration,
- (d) in the case of an appeal of findings in a record under section 17(15), confirm, revoke or vary the officer's findings, or remit the matter back to the officer for reconsideration,
- (e) in the case of an appeal of findings in a report under section 19(2), confirm, revoke or vary the officer's findings, or remit the matter back to the officer for reconsideration,
- (f) in the case of an appeal of an order issued under section 19(8), confirm, revoke or vary the order, or remit the matter back to the officer for reconsideration, or
- (g) reject the matter summarily where the appeal body is of the opinion that the matter is without merit, or is frivolous, trivial, vexatious, filed with improper motives or otherwise an abuse of process.
- (6)** When an appeal is commenced under subsection (2), the appeal body shall hear the appeal and make an order as soon as practicable.
- (7)** When an appeal is commenced under subsection (2)(a), (c), (d) or (e), the commencement of that appeal does not operate as a stay of the order, cancellation or suspension, or findings being appealed except insofar as the chair or a vice-chair of the appeal body so directs.

(8) When an appeal from an administrative penalty is commenced under subsection (2)(b), the commencement of that appeal operates to stay the administrative penalty until the appeal body renders its decision on the appeal or the appeal is withdrawn.

(9) If any order made by the appeal body is not complied with, the appeal body may file a copy of the order with the clerk of the Court of Queen's Bench and, on being filed, the order is enforceable as a judgment or order of the Court.

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

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

#### **Hearing of appeal**

**46(1)** The Lieutenant Governor in Council may, in accordance with section 8(5) of the *Labour Relations Code*, establish a Division for the purpose of hearing appeals under this Act.

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

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

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

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

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

- (7) Notwithstanding subsection (3), in the event of the death or incapacity of the person who is presiding over an appeal in which the evidence and argument have been heard,
- (a) the remaining members may decide the matter, if at least one of the remaining members is the chair or the vice-chair and there are at least 2 other members hearing the appeal, or
  - (b) if clause (a) does not apply, the remaining members, if unanimous in their decision, may decide the matter.
- (8) An order of a majority of the members of a panel of the appeal body present and constituting a quorum is the order of the appeal body and in the event that there is a tie vote, the chair or the presiding vice-chair, as the case may be, may cast a 2nd vote.
- (9) The appeal body may establish rules of procedure respecting the hearing of appeals under this Act.
- (10) For the purpose of hearing appeals under this Act, the appeal body has the same power as is vested in the Court of Queen's Bench for the trial of civil actions
- (a) to summon and enforce the attendance of witnesses,
  - (b) to compel witnesses to give evidence under oath or otherwise,
  - (c) to compel witnesses to give evidence in person or otherwise, and
  - (d) to compel witnesses to produce any record, object or thing that relates to the matter being heard.
- (11) The appeal body has exclusive jurisdiction to exercise the powers conferred on it by or under this Act and to determine all questions of fact or law that arise in any matter before it and the action or order of the appeal body on them is final and conclusive for all purposes, but the appeal body may, at any time, reconsider any order made by it and vary, revoke or affirm the order.
- (12) Subject to subsection (13), no order of the appeal body shall be questioned or reviewed in any court by application for judicial review or otherwise, and no order shall be made or process entered into or proceedings taken in any court, whether by way of injunction, declaratory judgment, prohibition, quo warranto or otherwise, to question, review, prohibit or restrain the appeal body or any of its proceedings.

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

## Part 9 Offences and Penalties

### Offences

**47** Every person who

- (a) fails to comply with an order or decision pursuant to this Act, the regulations and the OHS Code,
- (b) intentionally obstructs a Director or an officer in the exercise of the Director's or the officer's powers or the performance of the Director's or the officer's duties,
- (c) fails to reasonably cooperate with a Director or an officer in the exercise of the Director's or the officer's powers or the performance of the Director's or the officer's duties,
- (d) knowingly makes any false statement or knowingly gives false information to an officer or a police officer engaged in an inspection under section 34 or an investigation under section 36,
- (e) makes or causes to be made a false entry in any register, book, notice or other document required to be kept by the person pursuant to this Act, the regulations or the OHS Code, or deletes or destroys any true or proper entry in any of those documents,
- (f) fails to report an injury, illness, incident or worker exposure under section 33, or
- (g) fails to comply with any provision in this Act, the regulations or the OHS Code

is guilty of an offence.

### Penalties

**48(1)** A person who is guilty of an offence under section 47 is liable

- (a) for a first offence,
  - (i) to a fine of not more than \$500 000 and, in the case of a continuing offence, to a further fine of not more than

\$30 000 for each day during which the offence continues after the first day or part of a day, or

- (ii) to imprisonment for a term not exceeding 6 months,  
or to both fines and imprisonment,

and

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

**(2)** Notwithstanding subsection (1), a person who fails to comply with an order made under section 39 or as varied under section 41 or 45 is guilty of an offence and liable to a fine of not more than \$1 000 000 or imprisonment for a term not exceeding 12 months or to both a fine and imprisonment.

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

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

**49(1)** Where a person is convicted of an offence against this Act, the regulations or the OHS Code, in addition or as an alternative to taking any other action provided for in this Act, the court may, having regard to the nature of the offence and the circumstances surrounding its commission, make an order directing the person

- (a) to pay, in the manner and the amount prescribed by the court, a sum of money to a party named by the court to be the recipient of such funds, for any of the following purposes:
  - (i) training or educational programs regarding the health and safety of workers;
  - (ii) research programs into the diagnostic, preventative or remedial aspects of worker health and safety;
  - (iii) any worker health and safety initiative by a non-profit organization;



- (iv) the establishment and maintenance of scholarships for educational institutions offering studies in occupational health and safety and related disciplines;
- (v) any other purpose that furthers the goal of achieving healthy and safe work sites,

or

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

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

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

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

**50(1)** If a person is ordered under section 49 to pay money to any other person and fails to pay

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

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

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

## **Part 10**

### **Information Exchange and Programs**

#### **Agreements regarding research and educational programs**

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

- (a) carrying out research respecting the health and safety of workers,

- (b) establishing and operating training programs respecting the health and safety of workers,
- (c) establishing and operating programs to train persons in first aid and emergency medical services, and
- (d) establishing and operating educational programs respecting the health and safety of workers.

**Advisors**

**52(1)** The Minister may engage the services of experts or persons having special technical or other knowledge to

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

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

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

**Exchange of information**

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

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

- (b) any statistical information respecting any or all of the following:
  - (i) injuries or incidents occurring at work sites;
  - (ii) occupational illnesses or diseases;
  - (iii) assessments made by the Board under the *Workers' Compensation Act* and the cost of claims made under that Act,

and

- (c) any information specified by the regulations or the OHS Code.

**Publication of information about employers**

**54** The Minister shall publish at regular intervals documents and information arising from the administration of this Act, the regulations and the OHS Code, including

- (a) any available data on disabling injury claims, disabling injury rates, person years of work, lost time claims, lost time claims rates, motor vehicle fatalities, work site incident fatalities and occupational disease fatalities of employers,
- (b) any orders issued to prime contractors, contracting employers, suppliers, service providers, employers, owners, and temporary staffing agencies,
- (c) administrative penalties issued to any person,
- (d) tickets issued to employers, but not those issued to workers,
- (e) subject to the *Freedom of Information and Protection of Privacy Act*, investigation reports completed by an officer,
- (f) acceptances issued under section 20,
- (g) allowances issued under section 21,
- (h) approvals issued under section 22,
- (i) inter-jurisdictional recognitions issued under section 23,
- (j) interpretation bulletins and other publications, and
- (k) any other information that the Minister determines supports worker health and safety.

**Posting orders, reports, plans and procedures**

**55(1)** An employer, owner or prime contractor shall post a copy of an order issued under this Act to that employer, owner or prime contractor that is relevant to the work site.

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

**(3)** The employer, owner or prime contractor referred to in subsection (1) shall keep an order referred to in subsection (1) posted for so long as the order remains in effect.

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

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

**(6)** If a person is required to make a report or plan under this Act, the regulations or the OHS Code, the person shall ensure that the report or plan is in writing and a paper or downloaded or stored electronic copy of the report or plan is readily available for reference by workers, the joint health and safety committee, if there is one, and the health and safety representative, if there is one, at the work site affected by the report or plan.

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

**Occupational health and safety surveillance program**

**56** The Minister may establish, subject to the regulations, a program for the purposes of occupational health and safety surveillance, which includes

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

**Funded organizations**

**57(1)** Organizations funded by grants issued under section 136 of the *Workers' Compensation Act* shall, subject to the OHS Code, submit to the Minister a report in the form and containing the information required by the Minister.

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

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

**Designated organizations**

**58(1)** The Minister may, subject to the OHS Code, designate any person to further occupational health and safety or carry out a function, duty or obligation of a program established under section 59.

**(2)** The Minister may impose on a designation any terms, conditions and requirements that the Minister considers advisable.

**(3)** Any person designated under this section shall comply with the designation and any terms, conditions and requirements imposed by the Minister.

**Furthering occupational health and safety**

**59** The Minister may, subject to the OHS Code, establish and carry out programs to further occupational health and safety, including

- (a) imposing program terms and conditions;
- (b) establishing program policy and delivery criteria.

## **Part 11 Regulations and Administration**

**Lieutenant Governor in Council regulations**

**60(1)** The Lieutenant Governor in Council may make regulations

- (a) respecting the collection, use and disclosure of information, including individually identifying health information or personal information, for the purposes of section 31;
- (b) respecting information for the purposes of section 53;
- (c) respecting the establishment of an occupational health and safety surveillance program under section 56, including, without limitation, provisions
  - (i) respecting the collection, use and disclosure of information, including personal information as defined in the *Freedom of Information and Protection of Privacy Act* and the *Personal Information Protection Act* and the disclosure by a custodian of health information as defined in the *Health Information Act*, without the consent of the individual who is the subject of the information;
  - (ii) respecting requirements for information handling procedures and controls;
  - (iii) respecting security arrangements against risks such as unauthorized access, collection, use and destruction of the information, and
  - (iv) specifying other purposes for occupational health and safety surveillance;
- (d) authorizing a research and education program related to prevention of work site injuries and illnesses, including but not limited to
  - (i) authorizing the collection of information from The Workers' Compensation Board,
  - (ii) the use of information collected under subclause (i) in research and educational programming related to prevention of work site injuries and illnesses, and
  - (iii) authorizing the collection and use of information, if the information is related to research and educational programming related to prevention of work site injuries and illnesses;
- (e) respecting making assessments under section 63 on employers for the purposes of defraying part of the costs for administering this Act;
- (f) defining terms used but not defined in this Act;

- (g) respecting any matter concerning the transition from the previous Act to this Act, and to remedy any confusion, difficulty, inconsistency or impossibility resulting from the transition;
- (h) respecting any matter the Lieutenant Governor in Council considers necessary and advisable for carrying out the intent and purposes of this Act.

**(2)** A regulation made under subsection (1)(g) may be made retroactive to the extent set out in the regulation.

**(3)** A regulation made under subsection (1)(g) is repealed on the earliest of the following:

- (a) the coming into force of an amendment that adds the subject-matter of the regulation to this Act;
- (b) the coming into force of a regulation that repeals the regulation made under subsection (1);
- (c) 3 years after the regulation comes into force.

**(4)** The repeal of a regulation under subsection (3)(b) or (c) does not affect anything done under the authority of the regulation before the repeal of the regulation.

#### **OHS Code**

**61(1)** The Minister may make an OHS Code

- (a) respecting specific health and safety matters and rules for or in connection with occupations and work sites, including
  - (i) reporting requirements and the maintenance and preservation of documents reported,
  - (ii) medical and health requirements,
  - (iii) joint health and safety committees and health and safety representatives,
  - (iv) the requirements for codes of practice and other information and documents, and
  - (v) the instruction, supervision and qualifications of specified persons;
- (b) providing for the prevalence of specified provisions of the OHS Code over other specified provisions of the OHS Code;

- (c) providing for any matter or thing which by this Act may or is to be provided for by the OHS Code;
- (d) respecting the adoption or incorporation of a code (in this section referred to as a “secondary code”) or part of a secondary code, as that secondary code or part exists at a particular time, dealing with health and safety matters under clauses (a) to (c);
- (e) respecting approvals referred to in section 22;
- (f) respecting licences and licensing, including qualifications to obtain and hold licences and the maintenance of a registry of licensees;
- (g) respecting fees for licences and for services and materials provided under this Act and the OHS Code;
- (h) respecting elements to be included in a health and safety program under section 16;
- (i) respecting incidents for the purposes of section 33(3);
- (j) respecting programs under section 51;
- (k) respecting the submission of reports by organizations under section 57;
- (l) respecting the designations of persons under section 58;
- (m) respecting the establishment and carrying out of programs under section 59;
- (n) respecting service of documents under section 64(6)(a)(i), (ii), (iii) and (iv), (b)(i), (ii), (iii) and (iv) and (c)(i), (ii), (iii), (iv) and (vi), including provisions respecting
  - (i) the electronic methods by which service may be effected,
  - (ii) service by recorded mail, and
  - (iii) when service by recorded mail or an electronic method is deemed to be effective;
- (o) prescribing the maximum exposure limits for ionizing radiation and non-ionizing radiation;
- (p) governing safe use of radiation equipment or radiation sources;



- (q) designating radiation equipment that requires a registration certificate under the OHS Code;
- (r) governing the issue, suspension and cancellation of registration certificates under the OHS Code;
- (s) governing the term and renewal dates of registration certificates under the OHS Code;
- (t) prescribing the nature and frequency of inspections or maintenance programs for radiation equipment to be undertaken by the employer;
- (u) adopting, in whole or in part, any health or safety code or standard respecting radiation equipment or radiation sources.

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

**(3)** Any provision of the OHS Code may be made to apply generally or to a particular occupation, work site, prime contractor, owner, employer, contracting employer, service provider, supplier, temporary staffing agency, supervisor, worker or any class of any such category.

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

**62(1)** Any provision of the regulations or the OHS Code may be made to apply generally or to a particular occupation, work site, prime contractor, owner, employer, contracting employer, service provider, supplier, temporary staffing agency, supervisor, worker or any class of any such category.

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

#### **Administration costs**

**63(1)** For the purpose of defraying part of the costs of administering this Act and the *Heroes' Compensation Act*,

- (a) the Minister shall, if authorized by the regulations, make assessments on employers, or
- (b) The Workers' Compensation Board shall, if an agreement is entered into under subsection (2)(b), pay to the Crown

amounts that may be prescribed by the Lieutenant Governor in Council.

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

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

**Service of documents**

**64(1)** In this section,

- (a) "document" means any notice or order referred to in this Act, the regulations or the OHS Code;
- (b) "receipt" means the standard instrument or electronic signature pad device that is in normal use in the service deliverer's business, a signature on which indicates a person's acceptance of recorded mail handled by that service deliverer;
- (c) "recorded mail" means any form of delivery of notices or other documents by mail or courier in which receipt of the notice or other document must be acknowledged in writing by the addressee or another individual present at the addressee's address;
- (d) "service deliverer" means the entity that provides the mail or courier service referred to in clause (c).

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

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

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

- (a) if the document is sent by recorded mail, on the date the receipt is signed in accordance with this section, unless the contrary is proved, or

- (b) if the document is transmitted by facsimile machine or email, when it is transmitted, unless it is proved that the facsimile or email containing the document was not received at the addressee's facsimile number or email address, as the case may be.

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

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

- (a) in the case of an individual,
  - (i) personally or by being left for the individual at
    - (A) an address provided by the individual to an officer with an individual present at that address,
    - (B) the individual's residence or last known residence with an individual present at that address, or
    - (C) the individual's workplace or last known workplace with an individual who represents himself or herself as being in charge of that workplace,
  - (ii) by ordinary mail or recorded mail sent to the individual at
    - (A) an address provided by the individual to an officer,
    - (B) the individual's residence or last known residence, or
    - (C) the individual's workplace or last known workplace,
  - (iii) by facsimile or email sent to the individual at a facsimile number or email address provided by the individual to an officer for the purposes of service on that individual,
  - (iv) by being sent to a lawyer or agent who is representing the individual on the matter to which the document being served relates, or
  - (v) as directed by the Court of Queen's Bench on application,
- (b) in the case of a corporation,
  - (i) by being left with

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

- (iii) by facsimile or email sent to a facsimile number or email address provided by a representative of the corporation to an officer for service on that corporation,
- (iv) by being sent to a lawyer or agent representing the corporation on the matter to which the document being served relates,
- (v) as directed by the Court of Queen's Bench on application, or
- (vi) by service on a partner in accordance with clause (b), in the case of a partner that is a corporation.

(7) Where it is necessary to prove service of any notice or other document in the course of any proceeding or prosecution under this Act, the regulations or the OHS Code, service is effected

- (a) if the notice or other document is served personally or left in accordance with subsection (6)(a)(i), (b)(i) or (c)(i), on the date it is served or left,
- (b) if the document or notice is sent by recorded mail, on the date acknowledgment of receipt is signed,
- (c) if the notice or other document is sent by facsimile, on the date the person sending the notice or other document receives a confirmation of the successfully completed transmission,
- (d) if the notice or other document is sent by email, on the date the email was sent, or
- (e) if the notice or other document is sent by ordinary mail,
  - (i) 7 days from the date of mailing if the notice or other document is mailed in Alberta to an address in Alberta, or
  - (ii) subject to subclause (i), 14 days from the date of mailing if the notice or other document is mailed in Canada to an address in Canada.

#### **Liability of officials**

**65** No action or proceeding lies or shall be commenced against the Crown, the Minister, a Director, an officer, the appeal body, an appeal body member or a staff member of the appeal body for anything in good faith done, caused or permitted or authorized to be done, attempted to be done or omitted to be done by that person or by any of those persons pursuant to or in the exercise or

supposed exercise of any power conferred by this Act, the regulations or the OHS Code or in the carrying out or supposed carrying out of any order made pursuant to this Act or any duty imposed by this Act, the regulations or the OHS Code.

**Act binds Crown**

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

## **Part 12**

### **Related and Transitional Provisions, Repeal and Coming into Force**

**Dissolution of Occupational Health and Safety Advisory Council**

**67** The Occupational Health and Safety Advisory Council referred to in section 38 of the *Occupational Health and Safety Act*, SA 2017 cO-2.1, is dissolved and the appointments of members of the Council are terminated.

**Transitional — regulations**

**68(1)** The Lieutenant Governor in Council may make regulations

- (a) respecting the transition to this Act of anything under the former Acts, including the interpretation of any transitional provision in this Act;
- (b) to remedy any confusion, difficulty, inconsistency or impossibility resulting from the transition to this Act from the former Acts.

**(2)** A regulation made under subsection (1) may be made retroactive to the extent set out in the regulation.

**(3)** A regulation made under subsection (1) is repealed on the earliest of

- (a) the coming into force of an amendment that adds the subject-matter of the regulation to this Act,
- (b) the coming into force of a regulation that repeals the regulation made under subsection (1), and
- (c) 2 years after the regulation comes into force.

**(4)** The repeal of a regulation under subsection (3)(b) or (c) does not affect anything done, incurred or acquired under the authority of the regulation before the repeal of the regulation.

**Transitional — acceptances, approvals and licences**

**69(1)** Where an application is made before the coming into force of this Act for

- (a) an acceptance under section 55 of the previous Act,
- (b) an approval under section 56 or 57 of the previous Act, or
- (c) a licence under section 58 of the previous Act

and the application is not disposed of before the coming into force of this Act, the application must be continued and disposed of under and in conformity with the previous Act and, once granted, the acceptance, approval or licence issued is deemed to have been issued under the provision of Part 4 of this Act that corresponds to the provision of the previous Act under which the application was granted.

**(2)** Every

- (a) acceptance issued under section 55 of the previous Act,
- (b) approval issued under section 56 or 57 of the previous Act, and
- (c) licence issued under section 58 of the previous Act

that is valid and subsisting immediately before the coming into force of this Act is deemed to have been issued under this Act and continues in effect subject to this Act and any terms or conditions of the acceptance, approval or licence, as the case may be.

**Transitional — orders and administrative penalties**

**70(1)** Where, before the coming into force of this Act, an officer observes anything or becomes aware of anything that would authorize the officer to issue an order under section 60 or 61 of the previous Act, any order issued by the officer

- (a) must be issued under and in conformity with section 60 or 61 of the previous Act, as the case may be, irrespective of whether the order is issued before or after the coming into force of this Act, and
- (b) once issued, is deemed to have been made under section 39 or 40 of this Act, as the case may be.

**(2)** Any notice of administrative penalty issued by an officer in connection with a contravention, failure to comply, making of a false statement or giving of false information that occurred before the coming into force of this Act

- (a) must be issued under and in conformity with section 68 of the previous Act, irrespective of whether the notice of

administrative penalty is issued before or after the coming into force of this Act, and

- (b) once issued, is deemed to have been made under section 44 of this Act.

**(3) Every**

- (a) order issued under section 60 or 61 of the previous Act, and
- (b) notice of administrative penalty issued under section 68 of the previous Act

that is valid and subsisting immediately before the coming into force of this Act is deemed to have been issued under this Act and must be complied with in accordance with this Act.

**Transitional — investigation**

**71** Where an injury or incident occurs at a work site before the coming into force of this Act, the investigation of the injury or incident must be conducted under and in conformity with section 53 of the previous Act.

**Transitional — refusal of dangerous work and discriminatory action**

**72** Part 4 of the previous Act continues to apply in respect of any refusal to work or to do particular work or any alleged discriminatory action that occurs before the coming into force of this Act.

**Transitional — serious injuries and incidents**

**73** Section 40 of the previous Act continues to apply in respect of any injury or incident referred to in that section of the previous Act that occurs at a work site before the coming into force of this Act.

**Transitional — Director review and appeal**

**74(1)** Where, before the coming into force of this Act,

- (a) a review is requested under section 70 of the previous Act, or
- (b) an appeal is brought under section 71 of the previous Act

and the review or appeal is not disposed of before the coming into force of this Act, subject to subsection (2), the review or appeal must be continued and disposed of under and in conformity with the previous Act, and any right of further appeal must be determined by and exercised in accordance with the previous Act.



(2) The appeal body in any appeal referred to in subsection (1), after considering the matter being appealed, may make any order authorized by section 45(5) of this Act.

**Transitional — staff**

**75** An appointment or designation under section 42 of the previous Act that remains in effect immediately before the coming into force of this Act is deemed to have been made under section 26 of this Act.

**Transitional — radiation protection**

**76(1)** Section 13 of the *Radiation Protection Act*, RSA 2000 cR-2, continues to apply in respect of any overexposure or incident referred to in that section that occurs before the repeal of that Act.

(2) Section 16 of the *Radiation Protection Act*, RSA 2000 cR-2, continues to apply in respect of any condition or other state of facts that exist before the repeal of this Act that would authorize a radiation health officer or the Minister to take any action authorized by that section.

**Repeal**

**77(1)** The *Occupational Health and Safety Act*, SA 2017 cO-2.1, is repealed.

(2) The *Radiation Protection Act*, RSA 2000 cR-2, is repealed.

**Coming into force**

**78** This Act, except for section 67, comes into force on Proclamation.





