

## Publisher's Note

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<b>ANNOTATED OCCUPATIONAL HEALTH AND SAFETY ACT</b> <b>Deanna Exner, Bruce Arnott, Jeremy Warning and Steven Succì</b> <b>Release No. 1, June 2023</b>
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### What's New in this Update:

- Of note amongst the new annotations are the following:
  - *Working for Workers Act, 2022*, S.O. 2022, C. 7, Sched. 4, introduced a number of amendments to the *OHS Act* which took effect on July 1, 2022. The amendments included new maximum monetary penalties for officers and directors, new aggravating sentencing factors (which apply to all those charged under the Act), and extended the limitation period for *OHS Act* charges to two years.
  - *Ontario v. Great Lakes Food Co.*, 2022 ONCJ 447, a case in which a worker died after falling overboard on a fishing boat. There was no evidence to explain how or why the worker ended up in the near-freezing water. The

defendant was charged with failing to take the reasonable precaution of ensuring that “suitable cold water protective equipment was provided and used.” The court held that the Crown failed to make out the *actus reus* of the offence and the defendant was acquitted. The court found the inherent risk of submersion in cold water could not be considered in isolation from other circumstances. In addition, the lack of an explanation for the cause of the worker going overboard is a relevant consideration in determining the circumstances in which the employer is required to take reasonable precautions.

- *Cementation Canada Inc. v. A Director under the Occupational Health and Safety Act*, 2022 CanLII 60797 (Ont. L.R.B.), 2023 CanLII 10016 (Ont. L.R.B.), where the Board dismissed an application that appealed against a requirement issued by an inspector under section 54 of the *OHS*A. The Board determined that the decision to issue a requirement, while an investigation was ongoing, was not an order or decision that could be appealed under the *OHS*A. The Board did not have jurisdiction until a final decision is reached by the inspector.

## ProView Developments

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- The opening page is now the title page of the book as you would see in the print work
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- The Table of Cases and Index are now in PDF with no searching and linking
- The Table of Contents now has internal links to every chapter and section of the book within ProView
- Images are generally greyscale and size is now adjustable
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