

INDEX

The entries in the index are referenced to section numbers, including subsection numbers which appear in brackets after the section numbers.

- Accident (serious)**, *see* Serious accident or fatality
- Application of OHSA**
 - introduction, 2.1
 - regulations, 2.4
 - • *Construction Projects* regulation, 2.4(2)
 - • • companies deemed to have knowledge of regulation or rule, 2.4(2)
 - • • “construction” defined, 2.4(2)
 - • • constructors having administrative reporting duties, 2.4(2)
 - • • equivalency provision, 2.4(2)
 - • • mandatory completion of approved working-at-heights training program, 2.4(2)
 - • • “project” defined, 2.4(2)
 - generally, 2.4
 - • *Health Care and Residential Facilities* regulation, 2.4(3)
 - • • equivalency provision, 2.4(3)
 - • • scope and application specifically governed by provisions, 2.4(3)
 - • • sector previously governed by *Industrial Establishments* regulation, 2.4(3)
 - • • subjects covered, 2.4(3)
 - • *Industrial Establishments* regulation, 2.4(1)
 - • • compliance by employer where following intent of rule, 2.4(1)
 - • • definition, 2.4(1)
 - • • duties on employers to report accidents and injuries, 2.4(1)
 - • • subject areas encompassed, 2.4(1)
 - other regulations pursuant to *OHSA*, 2.4(4)
 - related legislation, 2.5
 - • program specific, 2.4(5)
 - • *Smoking in the Workplace Act*, 2.5
 - • WHMIS, 2.4(5)
 - • *Workplace Safety and Insurance Act (WSIA)*, 2.5
 - • • purpose of legislation, 2.5
 - specific classes of workers, 2.3
 - • farming operations exclusion, 2.3(3)

Index

- Application of **OHS**A (*cont'd*)
 - • • what qualifying as “farm operation”, 2.3(3)
 - • Government of Ontario, 2.2, 2.3(1)
 - • private residences exception, 2.3(2)
 - • teachers, 2.3(4)
 - who is covered by *OHS*A, 2.2
 - • definition of worker amended, 1.1, 2.2
 - • definition of worker expanded, 1.1, 2.2
 - • definition of workplace, 2.2
 - • federal workplaces excluded, 2.2
 - • unpaid workers have same rights as paid workers to refuse unsafe work, 1.1, 2.2
- Construction Projects regulation**
 - companies deemed to have knowledge of regulation or rule, 2.4(2)
 - ignorance of regulation being no defence, 2.4(2)
 - “construction” defined, 2.4(2)
 - constructors having administrative reporting duties, 2.4(2)
 - equivalency provision, 2.4(2)
 - mandatory completion of approved working-at-heights training program, 2.4(2)
 - “project” defined, 2.4(2)
 - return to work under *WSIA*, 16.2, 16.3
 - • early and safe return to work, 16.1
 - • re-employment obligation, 16.2, 16.3
 - • • collective agreement, 16.2
 - • • pre-conditions for obligation, 16.2
- Coroner’s investigations and inquests**
 - coroner’s inquests, 9.2, 9.3
 - • conduct of inquest, 9.3
 - • • charge to jury, 9.3(3)
 - • • Chief Coroner distributing jury’s findings, 9.3(3)
 - • • Crown Attorney as primary advocate, 9.3(3)
 - • • evidence, 9.3(3)
 - • • • relevancy test, 9.3(3)
 - • • jury’s verdict and recommendations, 9.3(3)
 - • • submissions to jury, 9.3(3)
 - • • witnesses, protection of, 9.3(3)
 - decision to hold inquest, 9.3(1)
 - • • discretion of coroner, 9.3(1)
 - • • mandatory in certain situations, 9.3(1)
 - function, main, 9.3
 - implications of coroner’s inquest, 9.3(4)
 - judicial review, 9.3(5)
 - • • bias, 9.3(5)(ii)
 - • • natural justice, 9.3(5)(i)
 - • • statutory jurisdiction, 9.3(5)(iii)
 - parties to inquest, 9.3(2)

Index

- Coroner's investigations and inquests (*cont'd*)
 - interested party applying for standing, 9.3(1)
 - questions to be answered, 9.3
 - coroner's investigations, 9.2
 - autopsy requirement, 9.2
 - manner of death, 9.2
 - medical cause of death, 9.2
 - pathologist undertaking task and submitting report, 9.2
 - broad investigative powers, 9.2
 - circumstances of death, particular, 9.2
 - duty to investigate in specified circumstances, 9.2
 - individuals such as experts assisting in investigation, 9.2
 - public's duty to inform coroner where person died under specified circumstances, 9.2
 - report and recommendations, 9.2
 - warrant for body for investigation, 9.2
 - introduction, 9.1
- Criminal liability for workplace health and safety**
 - background, 17.2
 - Bill C-45 reforms designed to ensure employer accountability, 17.2
 - Westray Mine disaster, 17.2
 - conviction, obtaining, 17.5
 - criminal offences requiring proof of negligence or intent, 17.5
 - negligence requiring proof of failure to exercise appropriate care, 17.5
 - recklessness or intent requiring proof of acting with intent, 17.5
 - corporate liability, expanded, 17.3
 - Bill C-45 broadening common law approach to liability, 17.3
 - circumstances where organization criminally liable, 17.3
 - class of individuals whose conduct attracting liability expanded, 17.3
 - "organization", liability imposed on, 17.3
 - definition of "organization", 17.3
 - "directing mind" concept limited in determining corporate liability, 17.3
 - introduction, 17.1
 - *Criminal Code* amendment: *Criminal Liability of Organizations*, 17.1
 - legal duty for workplace health and safety, 17.4
 - *Criminal Code* duty more onerous than general duty under *OHS*A, 17.4
 - criminal conviction providing strong deterrence to supervisors or managers, 17.4

Index

- Criminal liability for workplace health and safety (*cont'd*)
 - duty extending to anyone directing work of others, 17.4
 - risk of criminal liability increased, 17.4
 - employers held criminally liable for supervisors actions, 17.4
 - moral obligations, 17.8
 - moral leadership being of critical importance, 17.8
 - proactive steps to prevent accidents and promote good health, 17.8
 - SARS and H1B1 flu pandemic demonstrating obligations, 17.8
 - overriding responsibilities to employees and community, 17.8
 - planning for significant absenteeism, 17.8
 - preventing spread of communicable disease, 17.8
 - Westray Mine disaster highlighting moral obligations to employees, 17.8
 - penalties, 17.6
 - case where charges laid against manager or supervisor, 17.6
 - charges against managers or supervisors unlikely, 17.6
 - factors considered when sentencing organization, 17.6
 - comprehensive analysis of facts and circumstances, 17.6
 - fines increased, 17.6
 - probation as sentencing option for organizations, 17.6
 - additional probation conditions, 17.6
 - potential for liability, reducing, 17.7
 - compliance program, establishing, 17.7
 - compliance officer, 17.7
 - education and training, 17.7
 - health and safety policy, 17.7
 - proactive steps to reduce risk of serious accidents, 17.7
- Defences, see also Prosecutions under OHSA**
 - defence support through well-functioning and active JHSC, 10.6
 - procedural defences, 10.4
 - abuse of process, 10.4
 - *Charter* defences, 10.4
 - delay, 10.4
 - substantive defences, 10.4
 - “due diligence” defence, 10.4
 - “officially induced error”, 10.4
 - proof of offence, 10.4
- Designated substances, see Toxic substances**
- Discipline**
 - corrective action plan (CAP), 18.4
 - culpability of employee, 18.4(4)

Index

- Discipline (*cont'd*)
- • disciplinary consequence corresponding to offence, 18.4(6)
 - • discipline in action, 18.4(2)
 - • double jeopardy, 18.4(7)
 - • imposing discipline: assessing appropriate consequence, 18.4(3)
 - • • burden of proof in disciplinary cases resting with management, 18.4(3)
 - • • just cause being pivotal to all disciplinary cases, 18.4(3)
 - • introduction, 18.4
 - • • discipline being corrective, not punitive, 18.4
 - • • employer's legal right to establish reasonable rules, 18.4
 - • • purpose of discipline, 18.4
 - • mitigating or extenuating factors, 18.4(8)
 - • progressive discipline, 18.4(1)
 - • • dismissal, 18.4(1)(iv)
 - • • oral counseling, followed by reprimand or warning, 18.4(1)(i)
 - • • suspension without pay, 18.4(1)(iii)
 - • • written reprimand or warning, 18.4(1)(ii)
 - • whether misconduct warranting discipline, 18.4(5)
 - right to refuse work, 5.6, 5.7
 - • discipline and reprisal complaints, 5.6
 - • • complaint filed with board for unfair discipline, 5.6
 - • • • board having power to vary corrective action, 5.6
 - • • • employer required to prove that discipline imposed for improper refusal, 5.6
 - • • • union support not required, 5.6
 - • • grievance filed under collective agreement, 5.6
 - • • • arbitrators also having power to vary corrective action, 5.6
 - • • illegitimate work refusals, 5.6
 - • • • discipline upheld where, 5.6
 - • • • situations where work refusal illegitimate, 5.6
 - • • ongoing refusal after work cleared being insubordination, 5.6
 - • • option of contacting Ministry of Labour to have Inspector investigate reprisal, 5.6
 - • • protection from reprisals, 5.6
 - • proper disciplinary action vs. reprisal action, 5.7
 - • • progressive discipline, 5.7(3)
 - • • • corrective action, minimum, 5.7(3)
 - • • • discipline rarely justified in work refusal situations, 5.7(3)
 - • • • essential elements, 5.7(3)

Index

- Discipline (*cont'd*)
 - corrective action, 5.7(3)
 - suspension pending investigation, 5.7
 - facts concerning insubordination, 5.7(3)
 - offence of insubordination and order by employer, 5.7(3)
 - progressive discipline, 5.7(4)
 - prohibition against employer, 5.7(1)
 - safe practices through discipline and performance appraisals, reinforcing, 19.1(9)
- Duties under OHSA**
 - architects and engineers, liability of, 3.10
 - constructors, duties of, 3.4
 - “constructor” defined, 3.4
 - prescribed duties, 3.4
 - corporate officers and directors, duties of, 3.7
 - designated substances, duties concerning, 3.6
 - designated substances, 3.6
 - list of designated substances, 3.6
 - copy of list given to constructor, 3.6
 - copy of list given to contractor or subcontractor, 3.6
 - owners, duties of, 3.6
 - compiling and delivering list, 3.6
 - liability if loss caused by designated substance not listed, 3.6
 - employers, duties of, 3.2
 - basic training, 3.2(3)
 - employers obligated to keep record of training and exemptions, 3.2(3)
 - employers must provide must provide employees with records upon request, 3.2(3)
 - exemption from basic occupational health and safety awareness training, 3.2(3)
 - Ontario Regulation 297/13, *Occupational Health and Safety Awareness and Training*, 3.2(3)
 - mandated instruction for workers, 3.2(3)
 - mandated instruction for supervisors, 3.2(3)
 - supervisor must complete program within one week as a supervisor, 3.2(3)
 - worker must complete program as soon as practicable, 3.2(3)
 - purpose of employers providing basic health and safety training, 3.2(3)
 - use of Ministry of Labour’s guidance tools to assess competency, 3.2(3)
 - “employer” defined, 3.2

Index

- Duties under **OHS** (*cont'd*)
- • general duties, 3.2(1)
 - • • health and safety committees, helping, 3.2(1)
 - • • medical emergency, 3.2(1)
 - • • posting of **OHS** and regulations, 3.2(1)
 - • • supervisors, appointment of “competent” persons as, 3.2(1)
 - • • written OHS policy, 3.2(1)
 - • notices required from employers, 3.2(4)
 - • • health and safety representative, 3.2(4)
 - • • joint committee, 3.2(4)
 - • • Ministry of Labour, director of, 3.2(4)
 - • • union, 3.2(4)
 - • prescribed duties, 3.2(4)
 - everyone on workplace, duties of, 3.12
 - • person killed or critically injured, where, 3.12
 - introduction, 3.1
 - licensees, duties of, 3.9
 - owners, duties of, 3.5
 - • “owner” defined, 3.5
 - • plans for workplace changes to be given to Minister for review, 3.5
 - • prescribed duties, 3.5
 - supervisors, duties of, 3.3
 - • factors determining “supervisor” status, 3.3
 - • leadership role, 3.3
 - • prescribed duties, 3.3
 - suppliers, duties of, 3.8
 - workers, duties of, 3.11
 - • prescribed duties, 3.11
 - • “worker”, definition of, 3.11
 - • • inmate of correctional institute not included in definition, 3.11
- Duties under WHMIS**, *see* Workplace Hazardous Materials Information System (WHMIS)
- Ergonomics, 15.3, App. E**, *see also* Stress and ergonomics
- Evidentiary rules**, *see also* Prosecutions under **OHS**
- business records, 10.3(7)
 - • common law criteria for admissibility, 10.3(7)
 - • notice, 10.3(7)
 - • “usual and ordinary course of any business”, 10.3(7)
 - compellability of accused, 10.3(5)
 - criminal convictions, prior, 10.3(9)
 - Crown disclosure, 10.3(2)
 - • purpose of, 10.3(2)
 - medical records, 10.3(8)
 - onus of proof, 10.3(3)
 - public documents, 10.3(6)
 - • admissible without proof, 10.3(6)
 - right to counsel, 10.3(1)
 - • breach of right possibly resulting in evidence being inadmissible, 10.3(1)

Index

- Evidentiary rules (*cont'd*)
- • Crown agent to allow detainee reasonable time to exercise right, 10.3(1)
 - • detention refers to suspension of liberty by significant physical or psychological restraint, 10.3(1)
 - • detention triggering accused's right to counsel, 10.3(1)
 - • factors when considering if liberty deprived, 10.3(1)
 - • informing detainee of right to retain counsel, 10.3(1)
 - right to remain silent, 10.3(4)
 - • self-incriminating evidence, protection against, 10.3(4)
 - statements and confessions, 10.3(10)
 - • person in authority, 10.3(10)(i)
 - • • subjective test, 10.3(10)(i)
 - • voluntary statements, 10.3(10)(ii)
 - • • circumstances rendering statement inadmissible, 10.3(10)(ii)
- Fatality**, *see* Serious accident or fatality
- Harassment in workplace**
- definition of workplace harassment, 14.1
 - • definition expanded under Bill 132, 14.1
 - • “psychological harassment” or “personal harassment”, 14.1
 - • reasonable action or conduct not harassment, 14.1
 - • sexual solicitation, 14.1
 - • unwelcome pattern of conduct words or actions, 14.1
 - • vexatious comment or conduct, 14.1
 - discipline imposed proportionate to misconduct, 14.6
 - information and instruction for workers, 14.4
 - mandatory workplace harassment and sexual harassment investigations, 14.5
 - reprisals for harassment complaints, 14.7
 - workplace harassment policy, 14.2, App. F
 - • components of policy, 14.2
 - • criteria for harassment in *Human Rights Code*, 14.2
 - • sample policy, App. E
 - • written policy, 14.2
 - workplace harassment program, 14.3, App. F
 - • components of program, 14.3
 - • programs to be regularly maintained, reviewed and updated, 14.3
 - • sample program, App. F
- Health and Safety Representatives/ Joint Health and Safety Committees**
- composition of committees, training and committee meetings, 4.2(5)
 - • certification of committee members by CPO, 4.2(5)
 - • conduct of meetings, 4.2(5)

Index

- Health and Safety Representatives/ Joint Health and Safety Committees (*cont'd*)
 - • fewer than 50 workers, 4.2(5)
 - • generic training, 4.2(5)
 - • greater than 50 workers, 4.2(5)
 - • managerial members, 4.2(5)
 - • minutes of meetings, 4.2(5)
 - • non-managerial members, 4.2(5)
 - • payment for preparation and attendance at meetings, 4.2(5)
 - • preparation for meetings, 4.2(5)
 - • record of proceedings, complete and accurate, 4.2(5)
 - • Refresher Training, 4.2(5)
 - • sector-specific training, 4.2(5)
 - • Standards, 2016 changes to, 4.2(5)
 - • timing of meetings, 4.2(5)
 - • training providers under 1996 Standards no longer approved, 4.2(5)
 - establishment of effective representatives or committees, 4.4
 - functions and powers of representatives and committees, 4.3
 - • employer, general duties of, 4.3
 - • • assessment and control-program reports, providing, 4.3
 - • • lost-time injuries, reporting, 4.3
 - • • results of tests, providing, 4.3
 - • functions, principal, 4.3
 - • powers under *OHS*A, 4.3
 - • • recommendations to employer, 4.3
 - • • response by employer required, 4.3
 - introduction, 4.1
 - requirements for representative, 4.2(1)
 - requirements for committee, 4.2(2)
 - responsibilities of representative, 4.2(3)
 - worker trades committee, 4.2(4)
 - • construction projects, 4.2(4)
 - workplace accident inspections, 4.3(2)
 - • findings of accident inspection reported to Ministry of Labour, 4.3(2)
 - workplace audits, 4.3(3)
 - • Ministry of Labour inspectors, 4.3(3)
 - • representatives and committees, 4.3(3)
 - workplace inspections, 4.3(1)
 - • anticipation, hazards evaluated through, 4.3(1)
 - • evaluation of hazards, 4.3(1)
 - • likelihood of incident, determining, 4.3(1)
 - • monthly inspections, 4.3(1)
 - • • annual inspections for larger workplaces, 4.3(1)

Index

Health and Safety Representatives/ Joint Health and Safety

Committees (*cont'd*)

- • non-managerial member, 4.3(1)
- • recognition of hazards, 4.3(1)
- • reporting of real or potential hazard, 4.3(1)
- • schedule of inspections, 4.3(1)

Health Care and Residential Facilities regulation

- equivalency provision, 2.4(3)
- scope and application specifically governed by provisions, 2.4(3)
- sector previously governed by *Industrial Establishments* regulation, 2.4(3)
- subjects covered, 2.4(3)

Industrial Establishments regulation

- compliance by employer where following intent of rule, 2.4(1)
- definition, 2.4(1)
- • new safety procedure following intent of prescribed provision, 2.4(1)
- equivalency provisions, 2.4(1)
- duties on employers to report accidents and injuries, 2.4(1)
- subject areas encompassed, 2.4(1)

Inspections and investigations, *see* Ministry of Labour inspections and investigations

Internal responsibility system (IRS)

- description of IRS, 1.2
- • contributive responsibility for health and safety, 1.2
- • direct responsibility for health and safety, 1.2
- • each person to take initiative, 1.2
- • union members being internal, direct contributors, 1.2
- keys to successful IRS, App. A
- study of underground mines, 1.2
- • descriptions, roles and responsibilities re IRS, 1.2

Joint Health and Safety Committees, see Health and Safety Representatives/ Joint Health and Safety Committees

Legislative history of OHSA

- Ham Royal Commission, 1.1
- • internal responsibility system recommended, 1.1
- • principal rights of workers, 1.1
- scope of *OHSA*, 1.1
- • definition of “worker” amended, 1.1, 2.2
- • definition of “worker” expanded, 1.1
- • employers’ duties, 1.1
- • officers’ and directors’ duties, 1.1
- • unpaid workers have same rights as paid workers to refuse unsafe work, 1.1, 2.2

Index

- Legislative history of
 - OHS*** (*cont'd*)
 - Workplace Hazardous Materials Information System (WHMIS), 1.1
 - labeling hazardous inventory, 1.1
 - material information sheets, 1.1
 - Ministry of Labour inspections and investigations**
 - inspectors generally, 7.1
 - duties carried out within assigned region, 7.1
 - role of inspectors, 7.1
 - inspector's powers, 7.2
 - entry into workplace, 7.2
 - information required from employer, 7.2
 - seizure of evidence, 7.2
 - orders of inspector, 7.4, 7.5
 - appeals from orders, 7.5
 - appeals made to OLRB, 7.5
 - challenging correctness of order, 7.5
 - decision of board, 7.5
 - information required by Ministry of Labour in writing with appropriate forms, 7.5
 - notice of appeal, 7.5
 - compliance with order, employer notifying Ministry respecting, 7.4
 - notice of compliance and signed statement of worker member, 7.4
- content of order, 7.4
- contravention of *OHS* dangerous to health and safety, where, 7.4
- enforcement of order in courts, 7.4
- input from workplace stakeholders, 7.4
- notice of compliance, 7.4
- notice of order, 7.4
- posting of notice and order, 7.4
- toxic substances, 12.4
- Ministry of Labour orders, 12.4
- WHMIS, enforcement of, 11.9
- workplace inspections and investigations, 7.3
 - inspections, 7.3(1)
 - frequency, 7.3(1)
 - thorough examination of workplace, 7.3(1)
 - worker representative having right to accompany inspector, 7.3(1)
 - investigations, 7.3(2)
 - general health and safety complaint, 7.3(2)
 - obstruction of inspectors, 7.3(2)(v)
 - preservation of workplace, 7.3(2)(iv)
 - production of documents and records, 7.3(2)(i)
 - removal of property, 7.3(2)(ii)
 - tests, ordering, 7.3(2)(iii)

Index

- Ministry of Labour inspections and investigations (*cont'd*)
- biological, chemical or physical agent, 7.3(2)(iii)
 - work refusals, 5.4, 7.3(2)
 - “first stage” investigation by manager, 5.4, 7.3(2)
 - “second stage” investigation by Ministry of Labour inspector, 5.4, 7.3(2)
 - work stoppage, 7.3(2)
 - workplace accident, 7.3(2)
 - critical injury or fatality, 7.3(2)
 - site secured, 7.3(2)
 - right of entry into workplace, 7.3
 - search warrant, 7.3
- Orders of inspector, see also** Ministry of Labour inspections and investigations
- appeals from orders, 7.5
 - appeals made to OLRB, 7.5
 - challenging correctness of order, 7.5
 - decision of board, 7.5
 - information required by Ministry of Labour, 7.5
 - Labour Relations Officer to mediate appeal, 7.5
 - notice of appeal, 7.5
 - orders and decisions outlined, 7.5
 - time limit, 7.5
 - unsuccessful mediation set down for consultation, 7.5
 - compliance with order, employer notifying Ministry respecting, 7.4
 - notice of compliance and signed statement of worker member, 7.4
 - content of order, 7.4
 - contravention of *OHS*A dangerous to health and safety, where, 7.4
 - enforcement of order in courts, 7.4
 - input from workplace stakeholders, 7.4
 - notice of compliance, 7.4
 - notice of order, 7.4
 - posting of notice and order, 7.4
 - WHMIS, where non-compliance with, 11.9
 - written confirmation of verbal orders, 7.4
- Overview**
- industry and technical standards, INT-1
 - International Standards Organization (ISO), INT-1
 - minimum guidelines in workplace, INT-1
 - internal responsibility system (IRS), INT-1-INT-3, 1.2
 - generally, INT-3
 - key elements, INT-3
 - *OHS*A provisions specifically geared toward development of, INT-3
 - workplace stakeholders, support and cooperation of, INT-1, INT-2

Index

Overview (*cont'd*)

- limitations of OHS laws, INT-2
- • areas where law limited, INT-2
- • • enforcement of legislation being difficult, INT-2
- • • response mechanism more strictly regulated than behaviour causing accident, INT-2
- • • statutes and regulations incomplete or inadequate, INT-2
- • • statutes or regulations not known by workplace stakeholders, INT-2
- • primary commitment being safety, INT-2
- *Occupational Health and Safety Act (OHS)*, INT-1
- • external responsibility system, INT-1
- • *Industrial Establishments* regulation, INT-1
- • labour-management concerns relating to lost-time injuries and accidents, INT-1
- • purpose of legislation, INT-1
- • regulations, INT-1
- step 3: copy of *OHS* and regulations, posting, 19.1(3)
- step 4: competent supervision, appointing, 19.1(4)
- step 5: written safety policy, 19.1(5)
- • policy review, 19.1(5)
- • practical document, 19.1(5)
- step 6: written safety procedures for standard work operations, posting, 19.1(6)
- step 7: reporting and investigating accidents and hazards, effective system for, 19.1(7)
- step 8: independent forum to discuss complaints or safety concerns, 19.1(8)
- step 9: discipline and performance appraisals, reinforcing safe practices through, 19.1(9)
- step 10: safety meetings, holding, 19.1(10)
- step 11: inspections and audits, conducting, 19.1(11)
- step 12: proper documentation at all times, ensuring, 19.1(12)

Plan for employers: twelve steps, *see also* Rules for employers to live by

- step 1: knowledgeable about duties and current regulations, 19.1(1)
- step 2: educating employees about responsibilities, 19.1(2)
- **Policies and programs in health and safety**
- health and safety programs, 18.3
- • elements of program, 18.3
- • specific plan of action, 18.3
- introduction, 18.1
- preparation of occupational health and safety policy, 18.2, 19.1(5)
- • annual review of policy, 18.2

Index

- Policies and programs in health and safety (*cont'd*)
- • general policy statement vs. designed for specific workplace, 18.2
 - • practical document, 18.2, 19.1(5)
 - • review of policy, 19.1(5)
 - • sample health and safety policies, 18.2, App. G
 - • manufacturing plant, App. G
 - • office environment, App. G
 - • union, working with, 18.5
 - • collective agreement being tool to improve protection of health and safety, 18.5
 - • • sample collective agreement, 18.5, App. H
 - • • • manufacturing plant, App. H
 - • • • office environment, App. H
 - • *Labour Relations Act* being relevant to occupational health and safety, 18.5
 - • worker discipline: corrective action plan (CAP), 18.4
 - • culpability of employee, 18.4(4)
 - • disciplinary consequence corresponding to offence, 18.4(6)
 - • discipline in action, 18.4(2)
 - • double jeopardy, 18.4(7)
 - • imposing discipline: assessing appropriate consequence, 18.4(3)
 - • • burden of proof in disciplinary cases resting with management, 18.4(3)
 - • • just cause being pivotal to all disciplinary cases, 18.4(3)
 - • introduction, 18.4
 - • mitigating or extenuating factors, 18.4(8)
 - • progressive discipline, 18.4(1)
 - • • dismissal, 18.4(1)(iv)
 - • • oral counseling, followed by reprimand or warning, 18.4(1)(i)
 - • • suspension without pay, 18.4(1)(iii)
 - • • written reprimand or warning, 18.4(1)(ii)
 - • whether misconduct warranting discipline, 18.4(5)
- Progressive discipline**, *see also* Discipline and Right to refuse work
- corrective action, minimum, 5.7(3)
 - discipline rarely justified in work refusal situations, 5.7(3)
 - essential elements, 5.7(3)
 - • corrective action, 5.7(3)
 - • facts concerning insubordination, 5.7(3)
 - offence of insubordination and order by employer, 5.7(3)
 - program, corrective action, 18.4(1)
 - • dismissal, 18.4(1)(iv)

Index

- Progressive discipline (*cont'd*)
 - • oral counseling, followed by reprimand or warning, 18.4(1)(i)
 - • suspension without pay, 18.4(1)(iii)
 - • written reprimand or warning, 18.4(1)(ii)
- Prosecutions under OHSA**
 - appeals, 10.7
 - defences, 10.4
 - • procedural defences, 10.4
 - • • abuse of process, 10.4
 - • • *Charter* defences, 10.4
 - • • delay, 10.4
 - • substantive defences, 10.4
 - • • “due diligence” defence, 10.4
 - • • “officially induced error”, 10.4
 - • • proof of offence, 10.4
 - evidence, rules of, 10.3
 - business records, 10.3(7)
 - • • common law criteria for admissibility, 10.3(7)
 - • • notice, 10.3(7)
 - • • “usual and ordinary course of any business”, 10.3(7)
 - compellability of accused, 10.3(5)
 - criminal convictions, prior, 10.3(9)
 - Crown disclosure, 10.3(2)
 - • • purpose of, 10.3(2)
 - medical records, 10.3(8)
 - onus of proof, 10.3(3)
 - • public documents, 10.3(6)
 - • • admissible without proof, 10.3(6)
 - • right to counsel, 10.3(1)
 - • • breach of right possibly resulting in evidence being inadmissible, 10.3(1)
 - • • Crown agent to allow detainee reasonable time to exercise right, 10.3(1)
 - • • detention refers to suspension of liberty by significant physical or psychological restraint, 10.3(1)
 - • • detention triggering accused’s right to counsel, 10.3(1)
 - • • factors when considering if liberty deprived, 10.3(1)
 - • • informing detainee of right to retain counsel, 10.3(1)
 - right to remain silent, 10.3(4)
 - • • self-incriminating evidence, protection against, 10.3(4)
 - statements and confessions, 10.3(10)
 - • • person in authority, 10.3(10)(i)
 - • • • subjective test, 10.3(10)(i)
 - • • voluntary statements, 10.3(10)(ii)
 - • • • circumstances rendering statement inadmissible, 10.3(10)(ii)
 - examples of prosecutions, 10.6
 - corporate and individual liability, 10.6

Index

- Prosecutions under *OHS*A (cont'd)
- • defence support through well-functioning and active JHSC, 10.6
 - • failure to ensure guard on conveyor's exposed tail pulley, 10.6
 - • failure to ensure trench properly sloped, 10.6
 - • failure to provide transportation for injured worker, 10.6
 - • failure to sufficiently train forklift operator, 10.6
 - • failure to train in safe dismantling of ride, 10.6
 - • material movement policies and procedures not adequate, 10.6
 - • multiple fines for multiple counts, 10.6
 - introduction, 10.1
 - prosecution process, 10.2
 - • information, laying of, 10.2
 - • limitation period of one year under *OHS*A, 10.2
 - • • potential for prosecution, 10.2
 - • *Provincial Offences Act* governing, 10.2
 - • summons for first court appearance, 10.2
 - verdict and sentencing, 10.5
 - • basic principles of sentencing, 10.5
 - • factors in determining severity of sentence, 10.5
 - • • corrective and preventative actions by employer, 10.5
 - • • fines, 10.5
 - • • • factors in determining amount of fine, 10.5
 - • • • other factors, 10.5
 - • • • public perception or reaction, 10.5
 - • • • subjective factors, 10.5
 - • • maximum fines, 10.5
 - • • multiple fines for multiple counts, 10.6
 - • • separate fine for each contravention, 10.5
 - • seeking to improve workplace conditions, 10.5
- Reprisals**, *see also* Right to refuse work
- complaint filed with board for unfair discipline, 5.6
 - board having power to vary corrective action, 5.6
 - employer required to prove that discipline for improper refusal, 5.6
 - union support not required, 5.6
 - grievance filed under collective agreement, 5.6
 - • arbitrators also having power to vary corrective action, 5.6
 - illegitimate work refusals, 5.6
 - • discipline upheld where, 5.6
 - • situations where work refusal illegitimate, 5.6
 - ongoing refusal after work cleared being insubordination, 5.6

Index

- Reprisals (*cont'd*)
- option of contacting Ministry of Labour to have inspector investigate reprisal, 5.6
 - proper disciplinary action vs. reprisal action, 5.7
 - • prohibition against employer, 5.7(1)
 - protection from reprisals, 5.6
- Return to work under WSIA**
- introduction, 16.1
 - • construction industry, 16.1
 - • offer of re-employment, 16.1
 - • *Workplace Safety and Insurance Act (WSIA)*, 16.1
 - labour market re-entry (LMR), 16.6
 - re-employment obligation, 16.2, 16.3
 - • collective agreement, re-employment provisions in, 16.2
 - • • whether statute providing greater rights, 16.2
 - • construction industry having own set of regulations, 16.2
 - • duration of re-employment obligation, 16.3
 - • • disabled worker entitled to accommodation for duration of disability, 16.3
 - • • • broader human rights expectations, 16.3
 - • employer responsibilities, 16.4(1)
 - • failure to co-operate in reintegration, consequences for, 16.7(1)
 - • failure to re-employ, consequences for, 16.7(2)
 - • • payments to worker, 16.7(2)
 - • • penalty levied, 16.7(2)
 - • worker responsibilities, 16.4(2)
 - work reintegration, 16.5, 16.6
 - • accommodation requirement, 16.5(1)
 - • “alternative comparable employment”, 16.5, 16.5(1)
 - • “available” work, 16.5(1)
 - • employer’s duty to re-employ, 16.5(1)
 - • “essential duties”, 16.5, 16.5(1)
 - work reintegration program (WRP), 16.6
 - • “suitable occupation (SO)”, 16.6(1)
 - • work transition (WT) assessment by WSIB, 16.6(1)
 - • work transition plan, 16.6(2)
 - • • training on the job (TOJ), 16.6(2)
- Right to refuse work, see also**
Right to stop work
- basis for work refusal, 5.3
 - • reason to believe that work situation is likely dangerous, 5.3
 - • • low threshold for worker to satisfy, 5.3
 - • • subjectively honest belief, 5.3
 - • right to refuse under *OHSA*, 5.3

Index

- Right to refuse work (*cont'd*)
- discipline and reprisal complaints, 5.6
 - complaint filed with board for unfair discipline, 5.6
 - board having power to vary corrective action, 5.6
 - employer required to prove that discipline for improper refusal, 5.6
 - Labour Relations Officer to mediate complaint case, 5.6
 - union support not required, 5.6
 - grievance filed under collective agreement, 5.6
 - arbitrators also having power to vary corrective action, 5.6
 - illegitimate work refusals, 5.6
 - discipline upheld where, 5.6
 - situations where work refusal illegitimate, 5.6
 - ongoing refusal after work cleared being insubordination, 5.6
 - option of contacting Ministry of Labour to have inspector investigate reprisal, 5.6
 - protection from reprisals, 5.6
 - introduction, 5.1
 - limitations on workers, 5.2
 - certain workers not able to refuse unsafe work, 5.2
 - types of workplaces, 5.2
 - where danger “normal part” of job, 5.2
 - police officers and firefighters, 5.2
 - where refusal endangering “life, health or safety” of others, 5.2
 - firefighters, Ministry of Labour guidelines for, 5.2
 - acceptable situations to refuse work, 5.2
 - unacceptable situations to refuse work, 5.2
 - payment of workers, 5.5
 - refusing workers entitled to regular pay during investigation, 5.5
 - sending worker home without pay, 5.5
 - worker obligated to remain near work station, 5.5
 - procedure for work refusal, 5.4
 - assigning new work to refusing worker, 5.4
 - “first stage” investigation by manager, 5.4, 7.3(2)
 - representative or committee member attending, 5.4
 - “second stage” investigation by Ministry of Labour inspector, 5.4, 7.3(2)
 - decision by inspector, 5.4
 - employer presenting evidence to inspector that work refusal improper, 5.4
 - explanation by employer usually sufficient, 5.4
 - burden shifting to worker to meet objective standard, 5.4
 - exceptions, 5.4

Index

Right to refuse work (*cont'd*)

- • second worker asked to do work that was refused, 5.4
- • worker having onus of demonstrating “reasonable grounds to believe” that unsafe, 5.4
 - • • continuing refusal, 5.4
 - • • objective standard, 5.4
- • worker reporting refusal to supervisor and manager, 5.4
- proper disciplinary action vs. reprisal action, 5.7
 - • complaint procedure, 5.7(2)
 - • • OLRB having broad remedial powers, 5.7(2)
 - • grievance procedure, 5.7(2)
 - • progressive discipline, 5.7(3)
 - • • corrective action, minimum, 5.7(3)
 - • • discipline rarely justified in work refusal situations, 5.7(3)
 - • • • essential elements, 5.7(3)
 - • • • • corrective action, 5.7(3)
 - • • • • facts concerning insubordination, 5.7(3)
 - • • • • offence of insubordination and order by employer, 5.7(3)
 - • • • • progressive discipline, 5.7(3)
 - • prohibition against employer, 5.7(1)

Right to stop work

- dangerous circumstances, 6.2
- introduction, 6.1
- joint work stoppage, 6.4

- • both certified members agreeing that dangerous circumstances, 6.4
 - • • certified members directing employer to stop work, 6.4
- • first certified member requesting investigation, 6.4
- • second certified member investigating matter, 6.4
- responsible use of right to stop work, 6.6
- unilateral work stoppage, 6.5
 - • declaration by OLRB, 6.5
 - • • criteria prescribed by regulation, 6.5
 - • • where joint right to stop work not sufficient to protect workers, 6.5
 - • order by certified member, 6.5
- workers not able to stop work, 6.3
- types of workplaces, 6.3

Rules for employers to live by

- L-E-A-D-E-R model, 19.2
 - • action, 19.2(iii)
 - • document: covering your assets: investigate and making analysis, 19.2(iv)
 - • evidence: preserving present, 19.2(v)
 - • excellence: your goal, not merely good enough, 19.2(ii)
 - • lead, not simply manage, 19.2(i)
 - • responsibility and recommending, 19.2(vi)

Index

- Safety data sheets (SDS), *see also* Workplace Hazardous Materials Information System (WHMIS)**
 - employer duties, 11.7(2)
 - controlled product, 11.7(2)
 - expiry date not required, 11.7(2)
 - updating date not required by employer, 11.7(2)
 - prior to use of controlled product, SDS or MSDS required, 11.7(2)
 - generally, 1.1
 - supplier duties, 11.6(3)
 - information to be included on SDS, 11.6(3)
 - material safety data sheets (MSDS) permitted during transition, 11.6(3)
- Serious accident or fatality**
 - definition, 8.2
 - “critical injury” defined, 8.2
 - erring on side of caution, 8.2
 - introduction, 8.1
 - company and employees potentially subject to prosecution, 8.1
 - charges being quasi-criminal in nature, 8.1
 - proactive employers: dealing with accident, 8.4
 - accident scene, securing, 8.4(2)
 - no person to interfere with or disturb scene of accident, 8.4(2)
 - preserving scene in all but trivial situations, 8.4(2)
 - representatives present to be interviewed by inspector, 8.4(2)
 - scene that cannot be preserved to be photographed and documented, 8.4(2)
 - first steps, important, 8.4(1)
 - internal investigation by management, 8.4(4)
 - accident report finalized, 8.4(4)
 - remedial action to correct factors that permitted accident, 8.4(4)
 - due diligence defence, establishing, 8.4(4)
 - evidence, preserving, 8.4(4)
 - categorizing of evidence, 8.4(4)
 - sketches, diagrams and photographs, 8.4(4)
 - review of internal policies and procedures, 8.4(4)
 - demonstrating that policies and procedures adhered to, 8.4(4)
 - victim, protecting, 8.4(1)
 - whom to be notified by employer, 8.4(3)
 - death or critical injury, 8.4(3)
 - report to director within 48 hours, 8.4(3)
 - non-critical injuries, 8.4(3)

Index

- Serious accident or fatality (*cont'd*)
 - similar notification requirements, 8.4(3)
 - written report to Ministry, 8.4(3)
 - content of report, 8.4(3)
 - proactive employers: due diligence defence, 8.5
 - extent to which safety policies and procedures adhered to, 8.5
 - reasons for deviations, 8.5
 - reasonable precautions taken to enforce policies and procedures, 8.5
 - re-examination of policies and procedures, 8.5
 - proactive employers: response system, 8.3
 - communicating to workers, 8.3
 - components of written procedure, 8.3
 - elements of response system, 8.3
- Stress and ergonomics**
 - ergonomics, 15.3
 - definition, 15.3
 - environmental factors, assessment of, 15.3
 - ergonomic program, 15.3
 - consultation with workers prior to implementation, 15.3
 - sample program: VDT operator, 15.3, App. I
 - ergonomic risks, assessment of, 15.3
 - introduction, 15.1
 - stress in workplace, 15.2
 - categories of job stress, 15.2
 - examples, 15.2
 - negative health effects, 15.2
 - signs and symptoms of workplace stress, 15.2
 - strategies to reduce stress or prevent workplace stress, 15.2
 - good job design, 15.2
 - job design guidelines, 15.2
 - suggestions by Canadian Mental Health Association, 15.2
 - “workplace stress”, meaning of, 15.2
- Toxic substances**
 - biological or chemical agents regulation, control of exposure to, 12.3
 - duty on employers to reasonably protect workers, 12.3
 - limits for range of hazardous agents, 12.3
 - construction workers, regulatory protection of, 12.3
 - designated substance regulations, 12.2
 - assessment of designated substance, 12.2(1)
 - control program, 12.2(1)
 - control programs, 12.2(2)
 - designated substances, 12.2
 - determining whether present or used in workplace, 12.2
 - introduction, 12.1
 - Ministry of Labour orders, 12.4

Index

- Toxic substances (*cont'd*)
 - • appeal of order, 12.4
 - • posting of order, 12.4
 - • restricting presence or use of toxic substance, 12.4
- Violence in workplace**
 - definition of workplace violence, 13.2
 - • accidental situations not included, 13.2
 - • capacity to appreciate actions not required, 13.2
 - • situations where workplace violence, 13.2
 - discipline for, 13.10
 - • serious discipline including dismissal, 13.10
 - • threats of injury or death, 13.10
 - domestic violence, 13.8
 - • measures and procedures in program, 13.8
 - • • individual safety plan, 13.8
 - • • summoning immediate assistance, 13.8
 - • targeted worker at risk, protecting, 13.8
 - • threat to co-workers, 13.8
 - • worker's specific circumstances evaluated, 13.8
 - information and instruction for workers, 13.6
 - • awareness of policy and program, 13.6
 - • information, instruction or training identified, 13.6
 - • • when worker changing jobs, 13.6
 - • • when worker hired, 13.6
 - • repeating of instruction or training, 13.6
 - • tailored to specific job and associated risks, 13.6
 - notification of workplace violence, 13.9
 - • duties under *OHS*A where person killed or critically injured, 13.9
 - • joint health and safety committee notified, 13.9
 - • police or emergency responders first notified, 13.9
 - person with history of violent behaviour, information concerning, 13.7
 - • disclosure of information, 13.7
 - • • correctional institutions, 13.7
 - • • factors considered in determining where disclosure required, 13.7
 - • • personal information necessary to protect worker, 13.7
 - • • reasonably necessary for worker's protection, 13.7
 - duty of employer or supervisor limited, 13.7
 - risk assessment, 13.3
 - • assessment results conveyed to joint health and safety committee, 13.3
 - • • copy to committee or workers, 13.3

Index

- Violence in workplace (*cont'd*)
 - • elements of risk assessment, 13.3
 - • • circumstances specific to workplace, 13.3(4)
 - • • • activities increasing risk of violence, 13.3(4)
 - • • • multiple locations, 13.3(4)
 - • • • • each location assessed for unique risks, 13.3(4)
 - • • • • re-assessment, when to undertake, 13.3(4)
 - • • • conditions of work, 13.3(3)
 - • • • nature of work, 13.3(2)
 - • • • type of work, 13.3(1)
 - • employer's responsibilities, 13.3
 - workplace violence policy, 13.4, App. C
 - • components of policy, 13.4
 - • sample policies, App. C
 - • written policy, 13.4
 - workplace violence program, 13.5, App. D
 - • annual review, 13.5
 - • components of program, 13.5
 - • multiple locations, 13.5
 - • • general program, 13.5
 - • • modifications based on site-specific risks, 13.5
 - • program tailored to fit workplace, 13.5
 - • review or revision, circumstances for, 13.5
 - • sample policy, App. D
- Workplace Hazardous Materials Information System (WHMIS)**
 - employer duties under WHMIS, 11.7
 - • education of workers, 11.7(3)
 - • • examinations required to ascertain understanding of training, 11.7(3)
 - • • exposed workers requiring training, 11.7(3)
 - • • information respecting products coming into contact with, 11.7(3)
 - • • successful training program, 11.7(3)
 - • • • generic instruction acceptable, 11.7(3)
 - • labeling and identification of controlled products, 11.7
 - • • example of label, 11.7(1)
 - • • notifying Ministry of Labour if unable to obtain supplier label, 11.7(1)
 - • • replacing supplier label if removed or destroyed, 11.7(1)
 - • • • workplace label, 11.7(1)
 - • • • • more general requirements, 11.7(1)
 - • • safe handling of product to minimize risks, information respecting, 11.7(1)
 - • • workplace label indicating availability of SDS or MSDS, 11.7(1)
 - • Safety data sheets (SDS), 11.7(2)

Index

- Workplace Hazardous Materials Information System (WHMIS) (*cont'd*)
 - expiry date not required, 11.7(2)
 - updating date not required by employer, 11.7(2)
 - prior to use of controlled product, SDS or MSDS required, 11.7(2)
 - regulation amendments under WHMIS 2015, 11.7
 - enforcement of WHMIS, 11.9
 - Ontario Ministry of Labour inspectors, 11.9
 - non-compliance with WHMIS, where, 11.9
 - role of inspectors, 11.9
 - federal WHMIS legislation, 11.4
 - establishes national requirements to identify suppliers, 11.4
 - relevant legislation, 11.4
 - 31 classes under WHMIS 2015
 - physical or health hazard, 11.4
 - controlled substance definition, 11.4
 - Hazardous Information Review Commission, 11.4
 - hazardous ingredient definition, 11.4
 - occupational health and safety components applicable to federal workers, 11.4
 - Ontario amendments, 11.4
 - introduction, 1.1, 11.1
 - components of WHMIS, 11.1
 - labeling hazardous inventory, 1.1
 - material information sheets, 1.1
 - Ontario WHMIS legislation, 11.4, 11.5
 - exemptions from Ontario's WHMIS legislation, 11.5
 - controlled products completely excluded, 11.5
 - controlled products partially excluded, 11.5
 - supplier label or MSDS not required, 11.5
 - hazardous waste, limited application to, 11.5
 - worker training, 11.5
 - legislation implementing WHMIS, 11.4
 - overview, 11.2
 - controlled product, 11.2
 - methods of providing information on controlled products, 11.2
 - purpose of federal WHMIS legislation, 11.2
 - purpose of provincial WHMIS legislation, 11.2
 - changes to WHMIS
 - Globally Harmonized System of Classification and Labelling of Chemicals (GHS) implementation, 11.3
 - WHMIS 2015, 11.3
 - classes of hazardous products, 11.4
 - legislation amendments, 11.3

Index

- Workplace Hazardous Materials Information System (WHMIS) (*cont'd*)
- three stages to facilitate transition to new requirements, 11.3
 - training on use of new hazardous products with WHMIS 2015 labels and SDS
 - supplier duties under WHMIS, 11.6
 - classification of controlled products, 11.6(1)
 - *Hazardous Products Act* and *Hazardous Products Regulations*, 11.6(1)
 - classes and class symbols, 11.6(1)
 - criteria for classification purposes, 11.6(1)
 - test results, reliance on, 11.6(1)
 - labels, 11.6(2)
 - labelling requirements under WHMIS 2015, 11.6(2)
 - typical WHMIS supplier label, 11.6(2)
 - safety data sheets (SDS), 11.6(3)
 - review by workers, must be available for, 11.6(3)
 - information to be included on SDS, 11.6(3)
 - material safety data sheets (MSDS) permitted during transition, 11.6(3)
 - specific duties, 11.6
 - “supplier” defined, 11.6
 - worker duties under WHMIS, 11.8
 - right to know about hazardous materials, 11.8
- Work reintegration**, *see* under Return to work under WSIA

