

42944304

***An Update has
Arrived in Your
Library for:***

**Please circulate this notice to anyone
in your office who may be interested
in this publication.**

Distribution List

	<input type="checkbox"/>
	<input type="checkbox"/>
	<input type="checkbox"/>
	<input type="checkbox"/>
	<input type="checkbox"/>

CANADIAN HEALTH AND SAFETY LAW

NORMAN A. KEITH

Release No. 2022-1, April 2022

Canadian Health and Safety Law provides detailed coverage of occupational health and safety law in every jurisdiction in Canada – provincial, federal and territorial. Reviewing health and safety law thematically and including commentary, case law and practical analysis, this title clearly sets out the statutes and regulations required for a solid understanding of your client’s obligations, and each court and tribunal decision helps you determine how to reduce or avoid liability. It includes information on must-know topics like: the internal responsibility system, the requirements for workplace joint health and safety committees and health and safety representatives, the legal defence of due diligence, the authority of government inspectors in the workplace, and alcohol and drugs in the workplace.

THOMSON REUTERS CANADA Customer Support

1-416-609-3800 (Toronto & International)

1-800-387-5164 (Toll Free Canada & U.S.)

Fax 1-416-298-5082 (Toronto)

Fax 1-877-750-9041 (Toll Free Canada Only)

Email CustomerSupport.LegalTaxCanada@TR.com

This publisher’s note may be scanned electronically and photocopied for the purpose of circulating copies within your organization.

What's New in This Update:

In this release, Appendix SLL: Selected Legal Literature has been updated to December 2021 and re-organized with headings clustering the resources under subject headings listed alphabetically. To the New Developments section of the book have been added over 30 court, board and tribunal decision relating to occupational health and safety issues from July to December 2021. Three new articles have been added to the Related Articles appendix as described in the Highlights section below.

Highlights:

NEW DEVELOPMENTS — In *Heritage Commercial Roofing, Re*, 2021 CarswellAlta 2655, [2022] A.W.L.D. 249, the prime contractor on a two-storey office building construction site had contracted with HCL to perform roofing activities. One of HCL's workers threw a 18-kg bag of debris off the roof, striking another contractor's framer on the head, causing severe injuries. HCL was assessed a \$10,000 administrative penalty for violating s. 8 and 318(1) of Alberta's *Occupational Health and Safety Code*. No control zone was established. There was no reasonable argument that HCL should be considered less culpable just because it was not the prime contractor. HCL's actions contributed to the incident, and the penalty was based on HCL's own actions as an "employer" not as a "prime contractor". Sections 3(4) and 9(2)(c) of the *Occupational Health and Safety Act* imposed obligations on all contractors and employers.

NEW DEVELOPMENTS — In *Northeastern Protection Service Inc. and Wheatley, Re*, 2021 CarswellNS, 2021 NSLB, an employee's regular night shift schedule was changed to include day shifts on weekends. The employee refused to work those shifts because doing so would increase his risk of contracting COVID-19 and spreading it to his immune-compromised father (with whom he lived). After the employee failed to attend a day shift, the employer cancelled all future shifts. The Nova Scotia Labour Relations Board allowed the employee's discriminatory action complaint under s. 45(1) of the *Occupational Health and Safety Act*. The employee was entitled to exercise his right to refuse work. The words "any other person" under s. 43(1) of the Act encompassed persons who were neither the employee, nor present at the workplace — including, here, the employee's father.

RELATED ARTICLES — "Trends in Sentencing under the *Occupational Health and Safety Act*: Fines Against Corporations in Fatality Prosecutions from 2016 — 2021" by Alessandra Hollands, Crown Counsel and Hamdi Moalim, both of Ontario's Ministry of Labour, Training and Skills Development.

RELATED ARTICLES — “Consequences of Pleading Guilty to an OHS/A Charge, Both Legal and Practical” by Cheryl Edwards of Mathews Dinsdale and Clark LLP. The paper discusses potential consequences including financial penalties, imprisonment or probation, record of conviction, publicity of conviction, future disclosure and impacts on other outstanding prosecutions or litigation. Also included is a “Checklist of Issues and Practices” for defence counsel.

RELATED ARTICLES — “The *Occupational Health and Safety Act’s* Definition of a ‘Supervisor’ and its Role in Health and Safety Prosecutions” — This article discusses several recent decisions defining the scope of the statutory definition of “supervisor” in Ontario’s Act, including recent 2021 jurisprudence addressing the meaning and significance of a putative supervisor’s “authority”.