

PREVENTION OF VIOLENCE IN THE WORKPLACE

Protection under Applicable Occupational Health and Safety Legislative Provisions

In Canada, the federal government¹ and each province and territory have passed modern occupational health and safety Acts which lay down various duties for employers and workers, and provide different rights for the latter, such as the right to be informed of known or foreseeable health or safety hazards in the workplace, the right to participate in the prevention of occupational injuries as members of joint health and safety committees (or, in most jurisdictions, as health and safety representatives), and the right to refuse dangerous work and be protected against dismissal or disciplinary action following a legitimate refusal. Comprehensive regulations addressing various types of workplace hazards have been adopted under these laws. Pertinent requirements of these occupational health and safety Acts and regulations, as for example those on appropriate personal protective equipment for workers, are applicable to risks associated with violence in the workplace.

Protection under Collective Agreements and Specific Occupational Health and Safety Legislative Provisions

Collective Agreement Provisions

In Canada, it is possible for trade unions to negotiate with employers collective agreement clauses and letters of agreement dealing with violence in the workplace. For example, some collective agreements contain guidelines for the joint development of workplace policies to identify security issues, prevent and control potential incidents of violence, and establish specific procedures and processes to ensure the safety of workers, particularly when they must work alone. Collective agreement provisions can be enforced by using the grievance settlement process provided in the agreement, as required by the labour relations law under which it was negotiated.

Legislative Provisions on Working Alone

All jurisdictions in Canada include provisions regarding persons working alone in their occupational health and safety regulations. Although such provisions often only apply to specific circumstances (e.g., workers performing their functions in isolated areas or working in confined spaces), they are sometimes framed in broader terms to take into account various safety hazards, including violence in the workplace.

This is recognized explicitly in Manitoba's *Workers Working Alone Regulation* under the *Workplace Safety and Health Act* and its *Code of Practice for Workers Working Alone*. Indeed, employers covered by the Regulation must develop and implement a plan to ensure, so far as is reasonably practicable, the safety of a worker "working alone under

¹ Under the Canadian constitution, labour legislation is primarily a provincial responsibility. However, the federal government administers labour affairs in certain industries such as extra-provincial or international railways, trucking and shipping as well as air transport, telecommunications and banks.

circumstances which may result in injury, health impairment, victimization through criminal violence or other adverse conditions”. In doing so, employers must consult and co-operate with the workplace safety and health committee or representative, if any, and the workers affected. The plan must include information concerning the identification of possible risks to each worker who may be working alone, control methods to minimize each identified risk, and details on the means of securing emergency assistance in the event of injury or other circumstances which may endanger a worker’s health or safety. Among work functions that may present high risk hazards, the *Code of Practice for Workers Working Alone* identifies service jobs where the cash or goods handled may “attract criminal victimization”.

Another example is Alberta’s *Occupational Health and Safety Code* under the *Occupational Health and Safety Act*, which contains a Part entitled “Working Alone”. The provisions contained in that Part stipulate that, when a worker is required to work alone and assistance is not readily available if there is an injury, illness or emergency, the employer must conduct a hazard assessment to identify existing or potential hazards and prepare a report on the results of the assessment and the methods used to control or eliminate those hazards. The hazard assessment must be repeated at reasonably practicable intervals to prevent the development of unsafe working conditions. The employer must also provide effective electronic communication between the worker and persons capable of responding in the event of an injury, illness or emergency. If effective electronic communication is not practicable or readily available at the work site, the employer or another competent worker must visit the worker, or the latter must contact the employer or another competent worker at intervals of time appropriate to the nature of the hazards associated with the work.

In Saskatchewan, under the *Occupational Health and Safety Regulations, 1996*, where a worker is required to work alone or at an isolated place, an employer or contractor must identify the risks arising from the conditions and circumstances of the worker’s work or the isolation of the place of employment in consultation with the occupational health committee, the occupational health and safety representative or, where there is no committee or representative, the workers. The employer or contractor must take all reasonably practicable steps to eliminate or reduce the risks identified, which must include the establishment of an effective communication system, and may include regular contact by the employer or contractor with the worker working alone or at an isolated place of employment; limitations on, or prohibitions of, specified activities; the establishment of minimum training or experience, or other standards of competency; the provision of personal protective equipment; or the establishment of safe work practices or procedures.

In New Brunswick, the *Code of Practice for Working Alone Regulation* under the *Occupational Health and Safety Act* requires that employers establish a code of practice to ensure, as much as is reasonably practicable, “the health and safety of an employee who works alone at any time at a place of employment” from risks related to the work assigned. The code of practice must identify potential risks to each employee working alone, state the procedures to follow in order to minimize these risks, and give details of the means by which emergency assistance can be provided by the employer and secured by an employee working alone. In addition, the employer must provide any equipment required, ensure that the code of practice is adhered to at the place of employment, and implement a training program for each employee who works alone at any time and each supervisor

responsible for such an employee.

In British Columbia, the *Occupational Health and Safety Regulation* under the *Workers Compensation Act* provides that an employer must develop and implement a written procedure for checking the well-being of a worker assigned to work alone or in isolation under conditions which present a risk of disabling injury, if the worker might not be able to secure assistance in the event of injury or other misfortune. That procedure must include the time interval between checks and the course of action to follow in case the worker cannot be contacted, including provisions for emergency rescue. A person must be designated to establish contact with the worker at predetermined intervals and he/she must keep a record of the results. In addition to checks at regular intervals, a check at the end of the work shift must be done.

The procedure for checking a worker's well-being, including time intervals between the checks, must be developed in consultation with the joint health and safety committee or worker health and safety representative, if any; and the worker assigned to work alone or in isolation must also be consulted with respect to the time intervals for checking his/her well-being.

A worker required to work alone or in isolation and any person assigned to check on the worker must be trained in the written procedure mentioned above.

The procedure and system for checking a worker's well-being must be reviewed at least annually, or more frequently if there is a change in work arrangements which could adversely affect a worker's safety or a report that the system is not working effectively

Other jurisdictions, namely Quebec, Nunavut and the Northwest Territories, have regulatory provisions requiring that employers provide means of communication and/or intermittent supervision for employees working alone or in isolated areas.

Legislative Provisions on Violence in the Workplace

In addition to regulating working alone, Alberta, British Columbia and Saskatchewan have enacted special provisions on violence in the workplace in their occupational health and safety legislation. Also, under the *Canada Labour Code* (Part II: Occupational Health and Safety), specific duties for employers include the obligation, in respect of every workplace or work activity under their control, to "take the prescribed steps to prevent and protect against violence in the work place". However, no such steps have yet been prescribed by regulation. Following are the major issues addressed in Alberta's *Occupational Health and Safety Code* under the *Occupational Health and Safety Act*, British Columbia's *Occupational Health and Safety Regulation* under the *Workers Compensation Act* and in Saskatchewan's *Occupational Health and Safety Act, 1993* and *Occupational Health and Safety Regulations, 1996* with respect to violence in the workplace.

Definition of “Violence in the Workplace”

Alberta	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 injury.
British Columbia	Violence means the attempted or actual exercise by a person, other than a worker, of any physical force so as to cause injury to a worker, and includes any threatening statement or behaviour which gives a worker reasonable cause to believe that he/she is at risk of injury.
Saskatchewan	Violence means the attempted, threatened or actual conduct of a person that causes or is likely to cause injury, and includes any threatening statement or behaviour that gives a worker reasonable cause to believe that he/she is at risk of injury.

Application

Alberta	A hazard assessment is required before work begins at a work site and this assessment must include the possibility of injury to a worker from physical violence as a potential hazard. The hazard assessment must be repeated at reasonably practicable intervals to prevent the development of unsafe working conditions.
British Columbia	A risk assessment must be performed in any workplace in which a risk of injury to workers from violence arising out of their employment may be present. The risk assessment must include the consideration of previous experience in the workplace and similar workplaces as well as the location and circumstances in which work will take place.
Saskatchewan	The legislation applies to certain types of places of employment, as prescribed in the regulations, which provide services or activities involving a risk of violence (e.g. law enforcement services, financial services, retail establishments open between 11:00 p.m. and 6:00 a.m., and taxi services).

General Obligations for Employers

Alberta	An employer must develop a policy and procedures respecting potential workplace violence. These procedures must be in writing and made available to the workers affected.
British Columbia	If a risk of injury to workers from violence is identified by an assessment, the employer must establish procedures, policies and work environment arrangements to eliminate, or if this is not possible to minimize, the risk to workers from violence.
Saskatchewan	An employer at a prescribed place of employment where violent situations have occurred or may reasonably be expected to occur must develop and implement a written policy statement to deal with potentially violent situations after consultation with the occupational health committee, the occupational health and safety representative, or the workers where there is no committee or representative. The employer must ensure that the policy statement is reviewed and, where necessary, revised every three years and whenever there is a change of circumstances that may affect the health or safety of workers.

Reduction or Elimination of the Risk

Alberta	If a risk of workplace violence is identified during a hazard assessment, the employer must take measures to eliminate, or if this is not reasonably practicable, to control the hazard through the use of engineering or administrative controls, or personal protective equipment or a combination of these.
British Columbia	The employer must establish procedures, policies and work environment arrangements to eliminate, or if this is not possible to minimize, the risk to workers from violence.
Saskatchewan	The policy statement on violence in the workplace must include the employer's commitment to minimize or eliminate the risk, and the actions he/she will take to do so, including the use of personal protective equipment, administrative arrangements and engineering controls.

Instruction and Training of Workers

Alberta

An employer must ensure that workers are instructed in the following: how to recognize workplace violence; the policy, procedures and workplace arrangements that effectively minimize or eliminate workplace violence; the appropriate response to workplace violence, including how to obtain assistance; and procedures for reporting, investigating and documenting incidents of workplace violence.

British Columbia

An employer must inform or instruct workers who may be exposed to the risk of violence with respect to the following:

1. the nature and extent of the risk, including information related to the risk of violence from persons who have a history of violent behaviour and whom workers are likely to encounter in the course of their work;
2. the means for recognition of the potential for violence;
3. the procedures, policies and work environment arrangements which have been developed to minimize or effectively control the risk to workers from violence;
4. the appropriate response to incidents of violence, including how to obtain assistance; and
5. the procedures for reporting, investigating and documenting incidents of violence.

Saskatchewan

The policy statement on violence in the workplace must include the procedure to be followed by the employer to inform workers of the nature and extent of the risk from violence, including, except where the disclosure is prohibited by law, any information in the employer's possession related to the risk of violence from persons who have a history of violent behaviour and whom workers are likely to encounter in the course of their work.

The policy statement must also contain the employer's commitment to provide a training program for workers that includes the following:

1. the means to recognize potentially violent situations;
2. the procedures, work practices, administrative arrangements and engineering controls that have been developed to minimize or eliminate the risk to workers;
3. the appropriate responses of workers to incidents of violence, including how to obtain assistance; and
4. the procedure for reporting violent incidents.

The employer must credit time spent by a worker attending a training program as time at work and ensure that he/she loses no pay or other benefits.

A copy of the policy statement must be made readily available to the workers by the employer.

Response to Incidents

- Alberta** An employer must investigate incidents of workplace violence, prepare a report outlining the circumstances of each incident, that includes any corrective action taken to prevent a recurrence, and have the report readily available for inspection by an occupational health and safety officer who may carry out his/her own investigation. The employer's report must be in writing and available to workers affected by it. In addition, an employer must ensure that a worker is advised to consult a health professional of his/her choice for treatment or referral if the worker reports an injury or adverse symptom resulting from workplace violence, or is exposed to workplace violence.
- British Columbia** The employer must ensure that a worker reporting an injury or adverse symptom as a result of an incident of violence is advised to consult a physician of his/her choice for treatment or referral.
- Saskatchewan** The policy statement on violence in the workplace must include the procedures for the reporting of a violent incident by workers and for the documentation and investigation of the incident by the employer. The policy statement must also include a recommendation that any worker who has been exposed to a violent incident consult his/her physician for treatment or referral for post-incident counselling. The employer must credit time spent by a worker receiving treatment or counselling as time at work and ensure that he/she loses no pay or other benefits.

Labour Law Analysis
International and Intergovernmental Labour Affairs
Labour Branch
Human Resources and Skills Development Canada
January 1, 2005