

What's INSIDE

Amendments to
The Workplace
Safety and
Health Act

2&3

New W.S.&H.
Client Service
Hours

4

APAM Annual
Seminar

4

Licence
Applicants

4

New Safety and Health Amendments

On August 9, 2002, the Manitoba Legislature passed the most significant amendments to The Workplace Safety and Health Act in 25 years. The changes flow from the consensus report of the Workplace Safety and Health Review Committee and fall within the mainstream of Canadian safety and health law.

Workplace safety and health law in Manitoba and other Canadian jurisdictions is based on the following general principles:

- **Internal responsibility system:** The people in the workplace who have the ability and authority to control hazards have a personal and shared responsibility for maintaining a safe and healthy workplace. While employers have the most authority and therefore the most legal responsibility, supervisors and workers as well as contractors, owners and suppliers also have legal safety and health responsibilities.
- **Due diligence:** The legal responsibility for maintaining a safe and healthy workplace goes beyond simply complying with specific regulatory requirements. It requires individuals to take all precautions that are reasonable and practical in the circumstances, to prevent harm.
- **Fundamental Safety and Health Rights for Workers:**
 - **The Right to Know** about workplace hazards and their control, and about the legal safety and health rights and responsibilities;

- **The Right to Participate** in health and safety decisions primarily through employer consultation with safety and health committees/representatives;
- **The Right to Refuse** work if there is reasonable grounds to believe it is dangerous to their safety and health or the safety and health of others.
- **Protection from Discipline** or other sanction for legal safety and health activity. This enables workers to participate in the management of safety and health on a more equal footing with supervisors and employers.
- **Internal and External Monitoring:**
 - **Workplace Safety and Health Committees** in workplaces with 20 or more workers and **Worker Safety and Health Representatives** in workplaces with 10 to 20 workers act as internal monitors on day to day safety and health practices in the workplace.
 - **The Workplace Safety and Health Division** acts as an external monitor, and is responsible for enforcing legal safety and health requirements.

This special issue of WorkSafe is devoted to explaining the key legislative changes passed on August 9, 2002.



Employer's Duties

- The general duties of employers have been further clarified to include:
 - Ensuring that workers are trained to do the job safely before starting a new job or before moving to a different part of the workplace with different procedures or hazards.
 - This may take the form of on-the-job training provided workers are under the direction of a supervisor or other person who is competent to do the job safely;
 - There can be no loss of pay or benefits for workers being trained.
 - Ensuring that worker supervised by someone who is competent to ensure work is done safely.

Supervisor's Duties

- Supervisors are required to:
 - Take reasonable precautions to protect the safety and health of workers under their supervision;
 - Ensure that workers under their supervision work safely and use safety equipment and clothing;
 - Advise workers of safety and health hazards.

Duties of Contractors, Owners and Suppliers

- **Contractor** (*A person who contracts with an employer/self-employed person to do work and directs their activities*)
 - Contractors are required to ensure that hazards within their control do not create a risk to safety and health.
- **Owner:** (*Owner of a premises or land where work is done*)
 - Owners are required to take reasonable and practical precautions to ensure the premises or land under their control does not create a safety and health risk.
 - Owners of private residences are excluded unless they carry on a business, trade or profession in their residence.
- **Supplier:** (*A person who supplies tools, equipment or chemical or biological substances to a workplace*)
 - Suppliers are required to ensure the tools, equipment or substances supplied are safe when used according to the instructions provided.

Construction Projects

Prime Contractors

A Prime Contractor is required at a construction project where more than one employer or self-employed person works on the project.

- If the owner of the construction project does not contract with someone to fulfill the role of prime contractor, the project owner is the prime contractor.
- **Duties of Prime Contractors:**
 - Take reasonable precautions to ensure everyone working on the project complies with legal safety and health requirements;

- Coordinate, organize and oversee the work at a project to ensure it is done safely;
- Establish a project safety and health committee if 20 or more workers are expected to work on the project and the project is expected to last more than 90 days; and
- Coordinate the safety and health programs of employers contracted to work on the project.
- **Employers** contracted to work on the project are required to tell the prime contractor the names of the supervisors.
- **Self-employed Persons** contracted to work on the project are required to advise the prime contractor when they are working on site.
- **Contractors** are required to advise the prime contractor of the names of the employers or self-employed persons to whom they subcontracted the work.

Duty to Provide Information

- Contractors, prime contractors, owners and suppliers are required to provide information about safety and health risks, relating to their areas of responsibility in the workplace, to other parties.

Safety and Health Program

- Employers are required to develop a written workplace safety and health program in consultation with the committee and implement it for each workplace with 20 or more workers.
 - Where one workplace safety and health program can address the safety and health issues in more than one workplace, the Division may allow a multi-site program.

The elements of the safety and health program must include:

- A policy statement;
- Hazard identification and control;
- Emergency response;
- Assignment of health and safety responsibilities/accountability;
- A schedule for inspections;
- A control plan for chemical and biological substances;
- A training plan for supervisors and workers;
- Investigation procedures for serious injuries, dangerous occurrences and work refusals;
- A strategies for worker participation;
- A system for dealing with contracted employers or self-employed persons which includes safety and health criteria for evaluating and selecting contracted employers/self-employed persons and procedures for regularly monitoring their safety and health practices; and
- A procedure to review the program at least every three years.

Discriminatory Action

- Protection from discipline or other sanction for safety and health activities has been expanded to include a worker taking reasonable action to prevent an injury to another person at a workplace.
- Complaints of discriminatory action will be investigated by a Safety and Health Officer of the Workplace Safety and Health Division. If the complaint is substantiated, the Officer will issue an order requiring the employer or union where applicable to:
 - cease the discriminatory action;
 - reinstate the worker to their former position;
 - pay any lost wages and benefits;
 - remove any reprimand or other reference to the incident from employment records.

Workplace Safety and Health Committees and Representatives

- The duties of Committees and Representatives have been expanded to include:
 - Making safety and health recommendations to the employer;
 - Conducting regular workplace inspections; and
 - Participating in investigations of accidents and dangerous occurrences.
- The worker Committee co-chairperson or Representative will participate in the resolution of a work refusal. If it cannot be resolved internally it will be referred to a Safety and Health Officer.
 - Workers who exercise their right to refuse dangerous work may not lose pay or benefits for doing so;
 - Employers may temporarily reassign the worker to alternate work.
- At the request of a Committee or Representative, an employer or prime contractor is required to provide the following safety and health information:
 - equipment or material testing reports;
 - safety and health inspections or investigations reports;
 - safety and health monitoring or audit reports.
- Committee members and Representatives are entitled to carry out their duties without loss of pay or benefits.
- Committee Members and Representatives are entitled to 2 days of training without loss of pay or benefits.
- If an employer does not implement a recommendation from a Committee or Representative he/she is required to respond within 30 days by either providing a time table for implementing the recommendation or giving reasons for not accepting the recommendation. Disagreements over the response may be referred to a Safety and Health Officer.

Inspections/Investigations

- Employers are required to allow the Committee worker co-chair (or designate), Representative or, in the absence of either of those, a worker to accompany a Safety and Health Officer on an inspection or investigation, if requested to do so by the Officer.
- Safety and Health Officers may require a demonstration of any machinery, equipment, etc. in the workplace.
- The Director may require employer to have tests conducted and reports prepared by a technically qualified individual.
- The Chief Occupational Medical Officer may conduct, or order health surveillance.
- Safety and Health Officers have authority to discontinue a stop work order.
 - Workers are entitled to the same wages and benefits they would have received if the stop work order had not been issued.
 - Employers may reassign workers affected by a stop work order to alternate work.
 - If there is no alternate work, the Workplace Safety and Health Division Director may issue an order lifting the requirement for the continuation of wages and benefits.
- A report on compliance with an Improvement Order is required within 7 days of the compliance date specified in the order.
- If an employer does not comply with an improvement order, Safety and Health Officers will prepare a report with evidence of non-compliance and submit it to the Deputy Minister. If the evidence supports a decision that the employer is in non-compliance with the Improvement Order, the Deputy Minister will issue an administrative penalty, to a maximum of \$5,000.

Streamlined Appeals

- A person directly affected by a decision or order of a Safety and Health Officer may appeal to the Director within 14 days; Director's decisions may be appealed to the Manitoba Labour Board within 14 days.
- Labour Board decisions may be appealed to the Court of Appeal only on questions of law or jurisdiction.

Exemptions

- The Director may grant exemptions from technical regulatory requirements only if safety and health is not compromised, and the affected parties have been consulted.

Offences and Penalties

- Judges may order a portion of fines levied to be used to conduct public safety and health education activities.

Review of The Act

- The Advisory Council on Workplace Safety and Health is required to conduct a review of the Act and its administration at least every five years.

WHAT'S NEW?

New W.S.&H. Client Service Hours:
Telephone contact hours (only) for our Client Services desk have been extended from 8:00 a.m. to 5:00 p.m., Monday - Friday.
Please call 945-3446 for your safety and health questions/concerns.

Accident Prevention Association of Manitoba (APAM) Annual Seminar
Tuesday, October 22, 2002
8:15 am - 4:30 pm
Victoria Inn
Winnipeg MB
For further information/registration contact Shelley Kaptein at (204) 253-2279

work Safe!

Visit our WEB page at www.gov.mb.ca/labour/safety/ and provide your comments to the editor of WorkSafe - Darlene Muise at dmuise@gov.mb.ca

Published since 1982 by:
Manitoba Labour and Immigration - Workplace Safety and Health Division
200 - 401 York Avenue, Winnipeg, Manitoba R3C 0P8
Editor: Darlene Muise
Phone: (204) 945-0767 Fax: (204)945-4556
E-mail: dmuise@gov.mb.ca

Circulation
One copy distributed to all workplaces in Manitoba at no charge. If you wish to be placed on the mailing list for your own copy, call 204-945-3446.

Permission to Copy
You may copy any of our articles/stories and ... PASS IT ON! Please credit the source if you publish our articles.

Letters/E-Mails/Faxes to the Editor
We welcome responses to articles/stories or information published in this newsletter as well as suggestions for future articles.

Publications Mail Agreement Number
40065629

Attention Licence Applicants

The Department of Labour and Immigration conduct licence and certification examinations under the following Acts:

The Power Engineers' Act
The Electricians' Act
The Gas and Oil Burner Act

For further information regarding the licence program, please call 945-3375 or 945-4101.

Examination Schedule

All licence or certificate exams are available on each date as follows:

WINNIPEG
Norquay Auditorium
Provincial Building
401 York Avenue

OCTOBER 2 & 16
NOVEMBER 6 & 20
DECEMBER 4 & 18

BRANDON
340 - 9th Street,
Winnipeg, MB
Brandon, MB

OCTOBER 17
NOVEMBER 21
DECEMBER 12

Examination Fees:

Electrical	\$25.00 or \$15.00 for a rewrite
Gas/Oil	\$25.00
All Power Engineers	\$40.00 (per paper)

Procedures:

1. Complete the application and verification forms provided by the department.
2. Enclose payment of examination fee with the application form (cheque or money order preferred)
3. Provide proof of completion of study courses, if applicable.
4. Submit application at least two weeks prior to desired examination date.