

Amendments to: The Workplace Safety and Health Act

The Manitoba Legislature amended *The Workplace Safety and Health Act* on August 9, 2002. All amendments came into force on this date with the exception of the administrative penalty provisions, which will come into force in early November, 2002. The key legislative changes are outlined below.

Employer's Duties

General duties have been clarified to include:

- ensuring that every worker receives competent supervision for safety and health purposes
- ensuring that every worker is trained to perform their work safely before they begin
 - workers may perform a work activity while being trained if under direct supervision of a person fully trained in that work activity
 - workers must be paid wages and any applicable benefits while being trained

Supervisor's Duties

Supervisors are required to:

- take all reasonable precautions to protect the safety and health of workers under their supervision
- ensure that workers under their supervision work in accordance with procedures and measures required by The Act and regulations, and use all devices and wear all protection required by law or provided by the employer
- advise workers under their supervision of all hazards to their safety and health in the area that they work

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 all matters in their control do not create a risk to the safety and health of persons at the workplace

Owner: (owner of a premises or land where work is done)

- owner of land or premises used as a workplace is required to ensure that the land or premises does not create a risk to the safety and health of persons at the workplace.
- a homeowner is not included, unless a business is being conducted in that home

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

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The Workplace Safety and Health Act

Construction Projects

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

Prime Contractor's Duties:

- ensure all persons working on the project comply with The Act
- coordinate, organize and oversee the work at a project to ensure it is done safely
- form a project safety and health committee if 20 or more workers are working on project, and project is expected to last more than 90 days
- coordinate the written safety and health programs of employers involved in project

Workplace Safety and Health Program

A written safety and health program is required in all workplaces with 20 or more workers, and must be prepared in consultation with the workplace safety and health committee.

Program elements to include:

- policy statement
- hazard I.D./control
- emergency response
- inspection schedule
- training plan
- worker participation
- responsibility/accountability
- control chemical/biological substances
- investigation procedures
- procedures to select, coordinate and monitor contracted employers/self-employed persons
- program review

Discriminatory Action

This section has been expanded to include:

- protection from discriminatory action where worker takes reasonable action to protect the safety and health of another person at a workplace
- Safety and Health Officers will respond to claims of discriminatory action and issue an order if the claim is substantiated

Workplace Safety and Health Committees & Representatives

The duties of Committees/Representatives have been expanded to include:

- making safety and health recommendations to the employer
- conducting regular workplace inspections
- participating in investigations of accidents and dangerous occurrences

The Act now specifies/clarifies that:

- committee members/ reps shall not lose pay or benefits for fulfilling their duties
- committee members/ reps are allowed to take the equivalent number of hours normally worked during two normal working days for the purpose of safety and health training
- employers are required to respond to committee recommendations within 30 days, unless the recommendations have been implemented

Inspections/Investigations

Legislative changes, include:

- Safety and Health Officers may require demonstrations of equipment, etc.
- the Director may require tests and reports from a technically qualified person
- the Chief Medical Officer may conduct or order health surveillance
- Safety and Health Officers may lift stop work orders
- administrative penalty system for non-compliance with improvement orders.

Appeal Process

The appeal process has been simplified, to include:

- a person directly affected by an order or decision of a Safety and Health Officer may appeal to the Director within 14 days; Director's decision may be appealed to the Manitoba Labour Board within 14 days

Review of The Act

A new section specifies that:

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