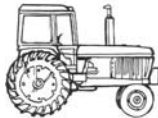


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# OCCUPATIONAL HEALTH AND SAFETY ACT

## POCKET EXTRACTS FOR FARMING OPERATIONS



*This document sets out some of the main provisions in the Occupational Health and Safety Act that apply to “farming operations”, as of June 30, 2006.*

### HEALTH AND SAFETY REPRESENTATIVES

Section 8.

(1) ... [W]here no [joint health and safety] committee is required ... and where the number of workers regularly exceeds five, the ... employer shall cause the workers to select at least one health and safety representative from among the workers at the workplace who do not exercise managerial functions.

### JOINT HEALTH AND SAFETY COMMITTEES

Section 3 of Regulation 414/05 (“Farming Operations”):

A joint health and safety committee is required on:

- (1) ... [F]arming operations where 20 or more workers are regularly employed and have duties that include performing work related to one or more of the operations specified in subsection (2).
- (2) The following are the operations referred to in subsection (1):
  1. Mushroom farming.
  2. Greenhouse farming.
  3. Dairy farming.
  4. Hog farming.
  5. Cattle farming.
  6. Poultry farming.

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## DUTIES OF AN EMPLOYER, SUPERVISOR AND WORKER

### Section 25.

- (1) An employer shall ensure that,
  - ...
  - (b) the equipment, materials and protective devices provided by the employer are maintained in good condition;
  - ...
  - (e) a floor, roof, wall, pillar, support or other part of a workplace is capable of supporting all loads to which it may be subjected without causing the materials therein to be stressed beyond the allowable unit stresses established under the *Building Code Act*.
- (2) Without limiting the strict duty imposed by subsection (1), an employer shall,
  - (a) provide information, instruction and supervision to a worker to protect the health or safety of the worker;
  - (b) in a medical emergency for the purpose of diagnosis or treatment, provide, upon request, information in the possession of the employer, including confidential business information, to a legally qualified medical practitioner ...;
  - (c) when appointing a supervisor, appoint a competent person;
  - (d) acquaint a worker or a person in authority over a worker with any hazard in the work and in the handling, storage, use, disposal and transport of any article, device, equipment or a biological, chemical or physical agent;
  - (e) afford assistance and co-operation to a committee and a health and safety representative in the carrying out by the committee and the health and safety representative of any of their functions;
  - ...
  - (h) take every precaution reasonable in the circumstances for the protection of a worker;
  - (i) post, in the workplace, a copy of this Act and any explanatory material prepared by the Ministry, both in English and the majority language of the workplace, outlining the rights, responsibilities and duties of workers;
  - (j) prepare and review at least annually a written occupational health and safety policy and develop and maintain a program to implement that policy [*note: this requirement does not apply to workplaces where less than 6 employees are regularly employed - see s. 25(4) below*] ;
  - (k) post at a conspicuous location in the workplace a copy of the occupational health and safety policy;
  - (l) provide to the committee or to a health and safety representative the results of a report respecting occupational health and safety that is in the employer's possession and, if that report is in writing, a copy of the portions of the report that concern occupational health and safety; and

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(m) advise workers of the results of a report referred to in clause (1) and, if the report is in writing, make available to them on request copies of the portions of the report that concern occupational health and safety.

(3) For the purposes of clause (2)(c), an employer may appoint himself or herself as a supervisor where the employer is a competent person.

(4) Clause (2)(j) does not apply with respect to a workplace at which five or fewer employees are regularly employed.

#### Section 27.

(1) A supervisor shall ensure that a worker,

(a) works in the manner and with the protective devices, measures and procedures required by this Act and the regulations; and

(b) uses or wears the equipment, protective devices or clothing that the worker's employer requires to be used or worn.

(2) Without limiting the duty imposed by subsection (1), a supervisor shall,

(a) advise a worker of the existence of any potential or actual danger to the health or safety of the worker of which the supervisor is aware;

...

(c) take every precaution reasonable in the circumstances for the protection of a worker.

#### Section 28.

(1) A worker shall,

(a) work in compliance with the provisions of this Act and the regulations;

(b) use or wear the equipment, protective devices or clothing that the worker's employer requires to be used or worn;

(c) report to his or her employer or supervisor the absence of or defect in any equipment or protective device of which the worker is aware and which may endanger himself, herself or another worker; and

(d) report to his or her employer or supervisor any contravention of this Act or the regulations or the existence of any hazard of which he or she knows.

(2) No worker shall,

(a) remove or make ineffective any protective device required by the regulations or by his or her employer, without providing an adequate temporary protective device and when the need for removing or making ineffective the protective device has ceased, the protective device shall be replaced immediately;

(b) use or operate any equipment, machine, device or thing or work in a manner that may endanger himself, herself or any other worker; or

(c) engage in any prank, contest, feat of strength, unnecessary running or rough and boisterous conduct.

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(3) A worker is not required to participate in a prescribed medical surveillance program unless the worker consents to do so.

...

## **RIGHT TO REFUSE OR TO STOP WORK WHERE HEALTH OR SAFETY IN DANGER**

### Section 43

...

- (3) A worker may refuse to work or do particular work where he or she has reason to believe that,
- (a) any equipment, machine, device or thing the worker is to use or operate is likely to endanger himself, herself or another worker;
  - (b) the physical condition of the workplace or the part thereof in which he or she works or is to work is likely to endanger himself or herself; or
  - (c) any equipment, machine, device or thing he or she is to use or operate or the physical condition of the workplace or the part thereof in which he or she works or is to work is in contravention of this Act or the regulations and such contravention is likely to endanger himself, herself or another worker.
- (4) Upon refusing to work or do particular work, the worker shall promptly report the circumstances of the refusal to the worker's employer or supervisor who shall forthwith investigate the report in the presence of the worker and, if there is such, in the presence of one of,
- (a) a committee member who represents workers, if any;
  - (b) a health and safety representative, if any; or
  - (c) a worker who because of knowledge, experience and training ... is selected by the workers to represent them,

who shall be made available and who shall attend without delay.

- (5) Until the investigation is completed, the worker shall remain in a safe place near his or her workstation.
- (6) Where, following the investigation or any steps taken to deal with the circumstances that caused the worker to refuse to work or do particular work, the worker has reasonable grounds to believe that,
- (a) the equipment, machine, device or thing that was the cause of the refusal to work or do particular work continues to be likely to endanger himself, herself or another worker;
  - (b) the physical condition of the workplace or the part thereof in which he or she works continues to be likely to endanger himself, herself or another worker; or
  - (c) any equipment, machine, device or thing he or she is to use or operate or the physical condition of the workplace or the part thereof in which he or she works or is to work is in contravention of the Act or the regulations and such contravention continues to be likely to endanger himself, herself or another worker,

the worker may refuse to work or do the particular work and the employer or the worker or a person on behalf of the employer or worker shall cause an inspector to be notified thereof.

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- (7) An inspector shall investigate the refusal to work in consultation with the employer or a person representing the employer, the worker, and if there is such, the person mentioned in clause (4) (a), (b) or (c).
- (8) The inspector shall, following the investigation referred to in subsection (7), decide whether the machine, device, thing or the workplace or part thereof is likely to endanger the worker or another person.
- (9) The inspector shall give his or her decision, in writing, as soon as is practicable, to the employer, the worker, and, if there is such, the person mentioned in clause (4) (a), (b) or (c).
- (10) Pending the investigation and decision of the inspector, the worker shall remain at a safe place near his or her work station during the worker's normal working hours unless the employer... ,
- (a) assigns the worker reasonable alternative work during such hours; or
  - (b) subject to section 50, where an assignment of reasonable alternative work is not practicable, gives other directions to the worker.
- (11) Pending the investigation and decision of the inspector, no worker shall be assigned to use or operate the equipment, machine, device or thing or to work in the workplace or in the part of the workplace being investigated unless, in the presence of a person described in subsection (12), the worker has been advised of the other worker's refusal and of his or her reasons for the refusal.
- (12) The person referred to in subsection (11) must be,
- (a) a committee member who represents workers and, if possible, who is a certified member;
  - (b) a health and safety representative; or
  - (c) a worker who because of his or her knowledge, experience and training is selected ... by the workers to represent them.
- (13) A person shall be deemed to be at work and the person's employer shall pay him or her at the regular or premium rate, as may be proper,
- (a) for the time spent by the person carrying out the duties under subsections (4) and (7) of a person mentioned in clause (4) (a), (b) or (c); and
  - (b) for time spent by the person carrying out the duties under subsection (11) of a person described in subsection (12).

## **REPRISALS BY EMPLOYER PROHIBITED**

### Section 50.

- (1) No employer or person acting on behalf of an employer shall,
  - (a) dismiss or threaten to dismiss a worker;
  - (b) discipline or suspend or threaten to discipline or suspend a worker;
  - (c) impose any penalty upon a worker; or
  - (d) intimidate or coerce a worker,

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because the worker has acted in compliance with this Act or the regulations or an order made thereunder, has sought the enforcement of this Act or the regulations or has given evidence in a proceeding in respect of the enforcement of this Act or the regulations or in an inquest under the *Coroners Act*.

**For more information on the Occupational Health and Safety Act:**

- Contact your local Ministry of Labour office listed in the Blue Pages of your phone book under “Health and Safety”
- Contact the Ministry of Labour’s toll free information line at 1-800-268-8013
- Visit the Ministry of Labour’s website at [www.labour.gov.on.ca](http://www.labour.gov.on.ca)

You may purchase copies of health and safety legislation from:

Ministry of Labour Publications  
655 Bay St 14<sup>th</sup> Fl  
Toronto ON M7A 1T7  
(416) 326-7731 / 1-800-268-8013

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