



# Your Rights, Responsibilities, and the Occupational Health and Safety Act



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*“What rights do I have under the Act?”*

*“How will my business be affected?”*

The Nova Scotia Occupational Health and Safety Act is designed to improve workplace health and safety in Nova Scotia. It provides for the promotion, coordination, administration and enforcement of occupational health and safety in the province.

## **How does this Act affect you and your workplace?**

The following guide describes some of the main points covered in the Act, and what they mean to *employers, employees, contractors, constructors, and self-employed persons* at the workplace. It is not a substitute for the Act, however, and reading the Act itself is encouraged. If you need further information, contact the

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# Commonly Asked Questions and Their Answers

## What is the Internal Responsibility System?

The Internal Responsibility System (IRS) is the foundation of the Occupational Health and Safety Act. Under the IRS, since all “workplace parties” influence what a workplace is like, they must all share responsibility for making the workplace safer and healthier. The Act sets out the responsibilities and duties of all workplace parties.

## What is meant by “workplace parties”?

Anyone connected with a particular workplace. This can include Employers, Contractors, Constructors, Employees and the Self-Employed, as well as Owners, Suppliers, Architects, Engineers and Occupational Health and Safety Consultants.

## Do all workplace parties share responsibility equally?

The Act states that all workplace parties share responsibility to the extent of their authority and ability to do so. An employer, for example, would ordinarily have more responsibility for workplace health and safety than would a supplier of goods.

## How does the OHS Division define “supervisor”?

A supervisor is a person who has charge of a workplace or authority over a workplace.

**As an employee, if I share in the responsibility for health and safety at my workplace, I'd like to have more “say” in how things are done.**

Under the Act, you do have a “voice”. The Act provides all employees with three basic rights. They are:

### **The Right To Know**

You have a right to information on issues that affect your health and safety.

### **The Right To Refuse**

You have the right to refuse unsafe or unhealthy work.

### **The Right To Participate**

You have the right to participate in the selection of members of a Joint

Occupational Health and Safety Committee or a Health and Safety Representative. You also have the right to report unsafe conditions and voice your concerns or opinions on any issue that affects your health and safety, or the health and safety of anyone at the workplace.

## Duties and Precautions

When you share the responsibility for health and safety in the workplace, you must take every reasonable precaution to prevent accidents. The following are some of the duties and precautions that the Act has set for various workplace parties.

**Employers** must ensure the health and safety of anyone at or near the workplace. Some of their duties include:

- 1 Maintain equipment
- 2 Provide safety instruction and job training
- 3 Make employees familiar with health and safety hazards in the workplace
- 4 Ensure employees have the right equipment and safety gear needed to do their job safely
- 5 Ensure employees are not exposed to health or safety hazards
- 6 Co-operate with the Joint Occupational Health and Safety Committee or the Health and Safety Representative and Department of Labour and Advanced Education OHS Officers
- 7 Comply with the Act and make sure that employees do so as well.

**Contractors or Constructors** must ensure the health and safety of anyone at or near the workplace or construction project.

**Employees** have a duty to report anything in the workplace that they think may be dangerous. The report should be made to:

- 1 A supervisor
- 2 If the supervisor does not fix the situation to the employee's satisfaction, the Joint Occupational Health and Safety Committee or Health and Safety Representative.
- 3 If the Joint Occupational Health and Safety Committee or Health and Safety Representative does not fix the situation to the employee's satisfaction, the Department of Labour and Advanced Education.

Employees must also take every reasonable precaution to ensure their health and safety and that of others in the workplace. This includes:

- 1 Reporting hazards to their supervisor as soon as the hazard is noticed

- 2 Wearing proper safety equipment and using safety procedures when doing a job
- 3 Co-operating with the Joint Occupational Health and Safety Committee or Health and Safety Representative.

**Owners** have a duty to maintain their land or premises properly when they are being used as a workplace. They must also pass along necessary health and safety information to any employers who occupy their land or premises.

**Architects, engineers and other occupational health and safety consultants** must make sure that the information they are giving out is accurate and complete.

**Trade Schools and Community Colleges** must include occupational health and safety principles as part of their courses.

## Occupational Health and Safety Policy

Under the Act, if a business employs five or more people on a regular basis, the employer is required to prepare a written occupational health and safety policy.

This policy must indicate that the employer is committed to occupational health and safety, and that the employer will co-operate with employees to meet the goal of a safer and healthier workplace.

The policy must also state the responsibilities of the employer and employees in creating and maintaining a safer and healthier workplace.

The Department of Labour and Advanced Education publishes a guide to policy preparation. Contact the Department for your free copy or log-on to the Occupational Health and Safety Division website:

[www.gov.ns.ca/lae/healthandsafety](http://www.gov.ns.ca/lae/healthandsafety)

## Occupational Health and Safety Program

When a business employs twenty or more people on a regular basis, the employer must establish and maintain a written occupational health and safety program.



The program must provide for:

- 1 The training and supervision of employees;
- 2 The preparation of written work procedures relative to health and safety;
- 3 The establishment of a Joint Occupational Health and Safety Committee or selection of a Health and Safety Representative, where one is required;
- 4 The establishment of a hazard identification program and accident/incident investigation system;
- 5 The maintenance of records and statistics, and;
- 6 The monitoring of the implementation and effectiveness of the program.

As with policies, the Department of Labour and Advanced Education publishes a guide to program preparation. Contact the Department for your free copy or log-on to the Occupational Health and Safety Division website: [www.gov.ns.ca/lae/healthandsafety](http://www.gov.ns.ca/lae/healthandsafety)

## **Joint Occupational Health and Safety Committee**

The creation of a Joint Occupational Health and Safety Committee is part of the employers' and employees' responsibility and right to participate. Such committees are required in every workplace where 20 or more workers are regularly employed.

The function of such a committee is to get employers and employees working together to improve health and safety in the workplace. Together they will make sure that:

- 1 Hazards are identified;
- 2 Health and safety requirements are complied with;
- 3 Health and safety matters or complaints arising in the workplace are quickly dealt with;
- 4 Regular inspections take place;
- 5 Advice on personal protective equipment is offered by the committee;
- 6 Policies or programs needed to be in compliance with the Act are reviewed in consultation with the committee, and;
- 7 Records and minutes of committee meetings are kept.

When such a committee is created:

- 1 The employer and employees must agree on the number of committee members;

- 2 At least half of the committee members must be employees not performing management functions;
- 3 The committee must have co-chairs representing management and non-management interests, unless the members agree to an alternative method of chairing;
- 4 The committee must meet at least once a month, unless the members agree on a different schedule;
- 5 Employees on the committee are allowed time off work with pay for committee business, and;
- 6 The committee must create its own rules of procedure.

## Health and Safety Representatives

In workplaces with more than four workers and no Joint and Occupational Health and Safety Committee, Health and Safety Representatives are part of the employer's and employee's responsibility and right to participate.

The duties of a Health and Safety Representative are similar to those of a Joint Occupational Health and Safety Committee, except that records, minutes and other issues that pertain to meetings are not required.

## Communication of Information

Communication of information is part of the employer's and employees' responsibility and right to know. It is extremely important to workplace health and safety that everyone in the workplace communicates information. Both the employer and the employee must take steps to make sure that everyone has access to the health and safety information that they require. Some of the items noted in the Act which improve good communications are:

- 1 An employer who receives a written request to respond to a recommendation from a Joint Occupational Health and Safety Committee or a Health and Safety Representative must respond within twenty-one days. If the employer cannot provide the information, they must give a written explanation.
- 2 An employer is required to let the Joint Occupational Health and Safety Committee or a Health and Safety Representative know about reports on health and safety inspections, monitoring or tests, and upon request, provide the reports.
- 3 An employer must display, where employees can see, the names of everyone on the Joint Occupational Health and Safety Committee or the

Health and Safety Representative and how to get in touch with them. Whenever a Joint Occupational Health and Safety Committee meeting has been held, the minutes of that meeting have to be displayed.

- 4 A copy of all Occupational Health and Safety Regulations that relate to that workplace must be available so that an employee may read them.
- 5 A copy of the Act, a telephone number for the Department of Labour and Advanced Education, and the workplace health and safety policy (where one is required) must be displayed in a place where employees can easily read them.
- 6 If an employer receives an order from the Department of Labour and Advanced Education, the employer must display the order, along with the notice of compliance, and any notice of appeal or appeal decision.

## Workplace Monitoring

Employee representatives have a right to watch workplace health and safety monitoring and/or tests. If the employee asks, the monitoring and testing procedures must be explained so that the employee is able to understand what is going on.

## Right to Refuse Work

If an employee is instructed to do work that they believe is dangerous to themselves or anyone else in the workplace, they can refuse to do the work until:

- 1 The employer fixes the problem to the employee's satisfaction.
- 2 The Joint Occupational Health and Safety Committee has investigated the situation, and all members of the Committee advise the employee to do the work.
- 3 A Department of Labour and Advanced Education OHS Officer investigates the situation and advises the employee to do the work.

If an employee refuses to do work, they should:

- 1 Report to a supervisor that they refuse to do the work.
- 2 If the problem is not fixed to the employee's satisfaction, report it to the Joint Occupational Health and Safety Committee, if one exists at that workplace.
- 3 If the problem is still not fixed to the employee's satisfaction, report it to the Department of Labour and Advanced Education.

When an employee refuses to do work, that employee has the right to participate in the investigation along with the Joint Occupational Health and Safety Committee or Department of Labour and Advanced Education OHS Officer. During the refusal, the employee must be paid their regular wages.

When an employee refuses to do work, the employer is allowed to give them other work to do.

Also, when one employee refuses to do work, the employer has the right to give the work to another employee, provided the second employee is made aware of:

- 1 The first employee's refusal,
- 2 The first employee's reason for refusing, and
- 3 The second employee's right to refuse.

## **Discriminatory Action**

An employer or union cannot take, or threaten to take, action that affects an employee's job because:

- 1 The employee has complied with the Act or regulations, or contacted the Department of Labour and Advanced Education about a violation of the Act or regulations.
- 2 The employee has spoken to the Joint Occupational Health and Safety Committee or Health and Safety Representative, serves on or does Committee work or is the Health and Safety Representative.
- 3 The employee has refused to do work that the employee believes is unsafe or unhealthy.
- 4 The employee is going to testify or has testified in court about violations of the Act or regulations on the part of the employer.
- 5 The employee has told the Joint Occupational Health and Safety Committee, the Health and Safety Representative or a Department of Labour and Advanced Education OHS Officer about possible health and safety violations in the workplace.

## **Complaints**

Where an employee believes that the employer or union are taking discriminatory action, the employee may complain to a Department of Labour and Advanced Education OHS Officer or, where available,

initiate a grievance. Complaints to the Department of Labour and Advanced Education must be in writing and filed within 30 days of the action taken by the employer or union.

Upon receipt of a complaint of Discriminatory Action, a Department of Labour and Advanced Education OHS Officer will decide whether or not the complaint is valid. If the complaint is found to be valid, then the Officer will issue an order requiring that any “damage” done to the employee is corrected. This could mean getting their job back, being paid their wages, etc.

If the Department of Labour and Advanced Education OHS Officer decides the employee does not have grounds to complain, then the employee will be notified of the decision.

## **Department of Labour and Advanced Education Inspections and Orders**

A Department of Labour and Advanced Education OHS Officer may inspect a business at any reasonable time of the day or night. The Officer may request records, conduct an investigation, take samples, seize an item or question the employer or employees.

## **Chemical Safety**

When hazardous chemicals are used in the workplace, the employer must prepare a list of what they are, and their common names.

## **Accidents**

An employer must notify the Department of Labour and Advanced Education within twenty-four hours if an accident happens in the workplace where a person has been killed or if there has been an accidental explosion, regardless of whether or not a person has been injured. If there has been a fire or accident at the workplace where an employee has been seriously injured, then the employer has seven days to notify the Department of Labour and Advanced Education.

## Appeals

A person who is directly affected by an order or decision of a Department of Labour and Advanced Education OHS Officer may appeal the order or decision. The appeal must be in writing and filed within fourteen days of the order or decision being received.

The appeal process has two levels. The first level is to the Director of the Department of Labour and Advanced Education's Occupational Health and Safety Division, who may confirm, vary, revoke or suspend the order or decision. This decision may in turn be appealed by any directly affected party to the Labour Board, who may confirm, vary, revoke or suspend the Director's decision. The Labour Board's ruling is final. Appeals in relation to Discriminatory Action matters are filed directly to the Labour Board and not to the Director.

Discriminatory Action appeals must be in writing and filed within 21 days of receipt of an Order by an officer. Discriminatory Action appeals are appealed directly to the Labour Board and not to the Director.

## Administrative Penalties

The Administration Penalties Regulations came into effect on January 15, 2010. Contraventions identified by an OHS Officer may be subject to an administrative penalty, the amount for which will vary depending on the workplace party (i.e., employer, supervisor, employee) and whether there was any potential for immediate injury that gave rise to the Order. Compliance with the OHS Officer's Order will not prevent the issuance of a penalty. Administrative penalties can be appealed directly to the Labour Board.

## OHS Act: Offences and Fine Amount

The maximum fine upon conviction for each offence under the OHS Act is \$250,000; however, if the offence resulted in a fatality the maximum fine is \$500,000. For a second or subsequent offence within five years from the date of conviction for a previous offence the maximum fine is \$500,000. Also, on summary conviction a term of imprisonment not exceeding two years or both a fine and imprisonment are possible.

# Workplace Safety and Insurance System

In Nova Scotia, the partners in the Workplace Safety and Insurance System include workers, employers, the Workers' Advisers Program, the Workers' Compensation Appeals Tribunal, the Occupational Health and Safety, the Workers' Compensation Board and others who provide service in the System.

For information on the System, the government partners and the services we provide, visit our website at [www.wsis.ns.ca](http://www.wsis.ns.ca).

This information has been prepared by the Occupational Health and Safety Division. For clarification on the material or any other parts of the Occupational Health and Safety Act or Regulations, please contact us at:

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OHS Knowledge Base: [www.gov.ns.ca/lae/kb](http://www.gov.ns.ca/lae/kb)

Additional information on the preparation of a policy and program is available from the Workers' Compensation Board of Nova Scotia and can be accessed at:

### **Workers' Compensation Board of Nova Scotia**

5668 South Street

Halifax, NS B3J 2Y2

Telephone: (902) 491-8999 (Halifax area)

Toll free: 1 (800) 870-3331 (NS only)

Web-site: [www.wcb.ns.ca](http://www.wcb.ns.ca)





