What is Occupational Health & Safety and why is it important?

The Occupational Health and Safety Act (OHSA) sets out the health and safety rights and duties of employees, employers, supervisors, and others in the workplace. It is designed to help workers increase their knowledge of hazards in the workplace and take action to prevent injuries. Knowing your rights is the first step to protecting your health and even your life.

Who is covered by the OHSA?

The OHSA covers all employers and workers in Ontario, with the exception of people who work in:

- Private residences
- the Government of Canada or in federally regulated industries

Employer Responsibilities

Your employer has the duty to:

- Take all reasonable precautions to protect the health and safety of their employees;
- Supply personal protective equipment and ensure workers know how to use it properly;
- Ensure that all materials and protective equipment are maintained in good condition;
- Train workers about any potential hazards and provide information, instruction and supervision to protect worker health and safety;
- Develop and implement a health and safety program and policy;
- Post a copy of the OHSA in the workplace;
- Provide health and safety reports to the workplace Joint Health and Safety Committee or Health and Safety Representative; and
- Assist the Joint Health and Safety Committee or the Health and Safety Representative in carrying out their functions under the OHSA.

Employee Rights

- You have the right to know about any hazards at work that you may be exposed to
- You have the right to participate in the process of identifying and resolving health and safety concerns by sitting on a Joint Health and Safety Committee or as a Health and Safety Representative.
- You have the right to refuse work that you reasonably believe is dangerous
- Your employer cannot penalize or threaten to penalize you for exercising these rights

Employee Responsibilities

In order to maintain a safe and healthy workplace, you also have the duty to:

- Use any equipment, protective devices or clothing required by your employer
- Tell your employer or supervisor about missing or defective equipment or protective devices that may be dangerous
- Report workplace hazards or violations of the Act to your supervisor
- Not remove or make ineffective any protective device required by the employer or by the regulations.
The Right to Know

The Right to Know: Training
You have the right to receive training in order to:
• Do your job safely
• Know what to do in the case of emergency or injury

You should be trained and receive information on:
• Machinery
• Equipment
• Working conditions
• Work Processes; and
• Hazardous substances

The Right to Know: Workplace Hazards
The Workplace Hazardous Materials and Information System (WHMIS) is a Canada-wide system designed to give employers and workers information about hazardous materials used in the workplace. All workers covered by the OHSA are also covered by WHMIS.

If you work with materials designated as controlled products or hazardous substances, WHMIS requires that you have access to information about:
• Which hazardous materials you are exposed to at work
• What is in those hazardous materials from labels and Material Safety Data Sheets (MSDSs)
• Proper material handling procedures

Controlled products include any material classified in one of the following categories:
• Compressed Gas
• Flammable and Combustible Material
• Oxidizing Material
• Poisonous and Infectious Material
• Corrosive Material
• Dangerously Reactive Material

Under WHMIS, you also have the right to be included in discussions about the content of training programs, the amount of training, who is to receive what training and who delivers the training.

See KYR for more information about WHMIS and your rights to know about workplace hazards.

Did You Know?
April 28th is Canada’s official National Day of Mourning for workers killed and injured on the job. Observed by Canadian unions since 1984, it was officially proclaimed by the Government of Canada in 1991, and has since spread to more than 80 countries. Workers, their families and their unions gather on April 28th to lay wreaths at local monuments to killed and injured workers, which have been erected in many communities across Canada and the world. See the Workers Health and Safety Centre’s website for local events and a list of workers’ monuments around Ontario:
http://www.whsc.on.ca/events/day_mourn.cfm

Hamilton, Ontario’s memorial to workers killed and injured at work, at the corner of Main and Bay Streets.
The Right To Participate
The OHSA is designed based on the joint participation of workers and employers. As a worker, you have the right to participate in the process of maintaining a safe work environment.

The Right to Report Dangerous Work
• **Every worker** has the right and responsibility to report unsafe practices or conditions at work.
• Your employer is **legally required** to investigate verbal reports about unsafe conditions.

The Right to a Joint Health and Safety Committee
• All workplaces with **20 or more workers** or which contain **toxic or designated substances** must have a Joint Health and Safety Committee (JHSC). Workers and employers must be **equally represented** on all JHSCs.
  • JHSCs in workplaces with **between 20 and 49 workers** must have at least **two** people.
  • JHSCs in workplaces with **50 or more workers** must have at least **four** people.
• The worker members of the committee must be elected by their fellow workers or by the trade union (if present).
• All workplaces **between 5 and 19 workers**, and which do not contain toxic or designated substances, must have a **Health and Safety Representative** elected by the workers or selected by the union.
• JHSCs are required to meet at least **once every three months**.

The Rights of JHSCs and Health and Safety Representatives:
• While performing duties as a JHSC member or H&S Rep, you are considered to be at work and **must be paid the same wages** you would receive if doing your regular work, including any overtime or other premium. You also have the right to:
  • obtain information from the employer about existing or potential hazards in the workplace as well as any workplace injuries and illnesses that have occurred;
  • be notified and consulted about any workplace testing being carried out for occupation health and safety purposes, and have a committee member present at the beginning of the testing to validate the procedures and / or results;
  • conduct workplace inspections at least once a month;
  • investigate serious injuries and workplace deaths; and
  • make written recommendations to the employer on ways to improve health and safety in the workplace.

Your employer must fully co-operate with the JHSC or Health and Safety Representative in your workplace, including:
• providing any information that the JHSC or H&S Rep has the power to obtain, including copies of all orders and reports issued by Ministry of Labour inspectors and reports on any workplace deaths, injuries and illnesses
• assisting the JHSC or H&S Rep in carrying out their functions in the workplace; and
• responding to written recommendations within 21 days.

*See KYR for more information about Joint Health and Safety Committees and Health and Safety Representatives.*
The Right to Refuse Unsafe Work

- You have the right to refuse unsafe work where you have reason to believe any equipment, machinery or physical condition of the workplace is dangerous.
- You also have the right to refuse work that you have reason to believe poses a danger of workplace violence.

How to Refuse Unsafe Work

- Upon refusing unsafe work, you must immediately tell your employer or supervisor.
- Your employer or supervisor must investigate your work refusal without delay in your presence, and in the presence of a JHSC worker member, a Health and Safety Representative, or a worker selected by a trade union or elected by the workers.
- You must remain in a safe place, near your workstation, until the investigation is complete.
- If you have reasonable grounds to think that your work is still hazardous following the employer's investigation, the employer must have a Ministry of Labour inspector report to the workplace.
- In this case, you can still refuse to do the work. During this time, your employer can assign you alternative work.
- You can't be asked to do work that was refused by another person, unless you are told that the work was refused and why, in the presence of a JHSC worker member, a Health and Safety Representative, or a worker selected by the trade union or elected by the workers. If you're asked to do work that someone else has refused as unsafe, you can also refuse to do the work.

When does the right to refuse not apply?

- Certain workers cannot refuse unsafe work:
  - Police
  - Firefighters
  - Guards in prisons and other correctional facilities
  - Hospital and other health care workers
  - Workers in residential and group homes
  - Ambulance services, certain medical laboratories, laundry, and food services
  - Power plant employees
  - Other technical services used in connection with the facilities and services which are excluded.
- You cannot exercise a right to refuse work if danger is a normal part of your work or if you would directly endanger the life, health or safety of another person.
Ministry of Labour Inspections

- A Ministry of Labour Inspector can enter and inspect any workplace covered by the Occupational Health and Safety Act without prior notice or a warrant, except for homes, unless the occupier consents or the inspector has a warrant.
- If the inspector issues an order to the employer, a copy of the order must be posted in the workplace where the employees can see it. A copy must be given to the health and safety representative or JHSC committee.
- Anyone affected by an inspector’s order or failure to issue an order can appeal to the Ontario Labour Relations Board within 30 days.
- The maximum fine for any individual having violated the OHSA is $25,000 and/or imprisonment for a term of up to 12 months.
- The maximum fine for any corporation convicted of an offence under the Act is $500,000.

Workplace Safety & Insurance

- The Workplace Safety and Insurance Act covers most workers in Ontario as soon as they start working for an employer.
- Part-time, seasonal, and domestic workers are covered by the Act.
- The Workplace Safety and Insurance Board (WSIB) provides benefits to people injured at work, including:
  - medical treatment, including all prescription drugs, medical devices, orthotics and transportation costs for accessing treatments;
  - replacement wages at 85% of a worker’s take-home pay, as well as compensation for permanent impairments.
  - job retraining for those unable to return to their previous job due to their injury
- Make sure to keep copies of all receipts for medical, transportation and other expenses, for the WSIB and your records.

What do I do if I’m hurt at work?

If you are injured at work, you must:
- Seek medical attention (first aid and / or health care)
- Inform your employer as soon as possible
- Apply for WSIB benefits within six months of your injury, if you were unable to work or lost wages beyond the day of your injury

Your employer must:
- Arrange and pay for transportation if you need medical treatment on the day of the accident; and
- Report the injury to WSIB within 3 days of learning of your injury. There are some minor exceptions to this rule.
- Pay your full wages and benefits for the day of the injury, if you later apply for and qualify for WSIB benefits.

Returning to work after a workplace injury

- If there are 20 or more workers at your workplace, your employer must re-employ you after an injury if you've been employed there continuously for at least one year. This obligation lasts until the earliest of:
  a. the 2nd anniversary of your workplace injury;
  b. one year after you return to your pre-injury job; or
  c. you turn 65.
- If you can perform the essential duties of your pre-injury job, you should be re-employed in that job, or offered comparable duties and wages.
- If you are unable to return to your pre-injury job, your employer is obligated to offer you the first available and suitable job.

Did You Know?

- In 2008, 1036 workers in Canada – more than two people every day – died at the workplace.
- In 2008, 942,478 people were injured or became ill at work.
- Young workers are especially vulnerable: over 48,000 are injured on the job every year, and 38 were killed on the job in 2007.
Workplace Violence and Harassment

Workplace violence means the use of physical force against a worker in a workplace, or attempts or threats to use physical force against a worker in a workplace. This includes threatening behaviour, written or verbal threats or abuse, as well as physical attacks.

Workplace harassment means engaging in cruel, demeaning, embarrassing and/or hostile behaviour against a worker in a workplace that is unwelcome. This includes bullying, spreading rumours, and making offensive jokes and innuendos.

Your employer MUST:

- have workplace violence and harassment policies;
- review the policies at least once a year;
- put programs in place based on the policies;
- assess, and, as necessary, re-assess, the risks of workplace violence for the workplace, and advise you, the JHSC or Health and Safety Representative about the results of the assessment or re-assessment;
- take all reasonable steps to protect you from domestic violence, if domestic violence could occur against you in the workplace;
- educate you about workplace violence and harassment policies and programs; and
- warn you when there is a risk of workplace violence that could cause physical injury. This duty also applies to your supervisor.

Did You Know?

According to the WSIB and the Canadian Centre for Occupational Health and Safety, people whose jobs involve the following kinds of activities are at increased risk of workplace violence:

- Contact with the public
- Handling money, valuables or prescription drugs
- Working in premises where alcohol is served
- Delivering passengers or goods
- Providing service, care, advice or education
- Having a mobile workplace (like a cab or truck)
- Working with unstable or volatile people
- Working alone, in small numbers or in isolated areas
- Working late at night or early in the morning
- Guarding valuable property or possessions
- Working in community-based settings (like nursing and home care)
- Carrying out inspection and enforcement duties

Know Your Rights Fact Sheet Series

For more information about your rights at work, check out the other fact sheets in the KYR series:

- Issue #1: Employment Standards
- Issue #3: Human Rights at Work
- Issue #4: Unions

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For More information and Support

- Know Your Rights (full version): www.yorku.ca/crws/rights
- Young Workers Support Hotline: 1.866.SAFEJOB
- Occupational Health and Safety, Ontario Ministry of Labour: www.labour.gov.on.ca/english/hs | 1.800.268.8013 or 416.326.7770
- Industrial Accident Victims Group of Ontario: www.iavgo.org | 1.877.230.6311 or 416.924.6477
- Ontario Labour Relations Board: www.olrb.gov.on.ca | 1.877.339.3335 or 416.326.7500
- Toronto Workers’ Health and Safety Legal Clinic: www.workers-safety.ca | 416.971.8832
- Workers’ Health and Safety Centre: www.whsc.on.ca | 1.888.869.7950 or 416.441.1939
- Workplace Safety and Insurance Board: www.wsib.on.ca | 416.344.1011
- Office of the Worker Advisor: http://www.owa.gov.on.ca/home_eng.html | 1.800.435.8980
- Canadian Centre for Occupational Health and Safety: www.ccohs.ca