

OHS Act

Section 1 Definitions

In this Act,

- a. **adopted code** means each code made under section 40.1(1) and adopted under section 40.1(2), including any secondary code adopted or incorporated as referred to in section 40.1(3), that is relevant to the circumstances in question;
- a.1 **code of practice** means a code of practice described in section 33;
- b. **contractor** means a person, partnership or group of persons who, through a contract, an agreement or ownership, directs the activities of one or more employers involved in work at a work site;
- c. **controlled product** means a substance or material designated in the regulations as a controlled product;
- d. **Council** means the Occupational Health and Safety Council appointed under section 6;
- e. **designated substance** means a substance designated in the regulations as a designated substance;
- f. **Director** means a Director of Inspection, a Director of Medical Services or a Director of Occupational Hygiene;
- g. **Director of Inspection** means a person appointed under section 5 as a Director of Inspection;
- h. **Director of Medical Services** means a physician appointed under section 5 as a Director of Medical Services;
- i. **Director of Occupational Hygiene** means a person appointed under section 5 as a Director of Occupational Hygiene;
- j. **disciplinary action** means an action that adversely affects a worker with respect to terms

or conditions of employment;

- k. **employer** means
- i. a person who is self-employed in an occupation,
 - ii. a person who employs one or more workers,
 - iii. a person designated by an employer as the employer's representative, or
 - iv. a director or officer of a corporation who oversees the occupational health and safety of the workers employed by the corporation;
- l. **hazardous material** means material designated in the regulations as hazardous material;
- m. **hazardous occupation** means an occupation designated in the regulations as a hazardous occupation;
- n. **hazardous work site** means a work site designated in the regulations as a hazardous work site;
- o. **licence** means a licence, certificate or permit issued under this Act;
- p. **Minister** means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- q. **new project** means a project defined in the regulations as a new project for the purposes of this Act;
- r. **notifiable disease** means a disease or a state of ill health designated in the regulations as a notifiable disease;
- s. **occupation** means every occupation, employment, business, calling or pursuit over which the Legislature has jurisdiction, except
- i. farming or ranching operations specified in the regulations, and
 - ii. work in, to or around a private dwelling or any land used in connection with the dwelling that is performed by an occupant or owner who lives in the private dwelling or a household servant of the occupant or owner;
- t. **occupational disease** means a disease or ill health arising out of and directly related to an occupation;
- u. **officer** means a Director or a person appointed under section 5 as an occupational health and safety officer;
- v. **owner** in respect of a work site means the person in legal possession of the work site or, if the person in legal possession does not request the work, the person with an ownership interest in the work site who requests that the work be done;

- w. **peace officer** means a member of the Royal Canadian Mounted Police or a member of a municipal police service;
- x. **prime contractor** means the prime contractor for a work site referred to in section 3;
- y. **project** means
 - i. the construction, demolition, repair, alteration or removal of a structure, building, complex, street, road or highway, pipeline, sewage system or electric, telecommunication or transmission line,
 - ii. the digging of, working in or filling of a trench, excavation, shaft or tunnel,
 - iii. the installation, modification, repair or removal of any equipment, machinery or plant,
 - iv. the operation of a manufacturing, industrial or other process, or
 - v. any work designated by a Director of Inspection or a Director of Occupational Hygiene as a project;
- z. **qualifications board** means a qualifications board established under the regulations;
- aa. **supplier** means a person who rents, leases, erects, installs or provides any tools, appliances or equipment or who sells or otherwise provides any designated substance or hazardous material to be used by a worker in respect of any occupation, project or work site;
- aa.1 **the regulations** means the regulations under section 40(1);
- bb. **worker** means a person engaged in an occupation;
- cc. **work site** means a location where a worker is, or is likely to be, engaged in any occupation and includes any vehicle or mobile equipment used by a worker in an occupation.

Section 2 Obligations of employers, workers, etc.

1. Every employer shall ensure, as far as it is reasonably practicable for the employer to do so,
 - a. the health and safety of
 - i. workers engaged in the work of that employer, and
 - ii. those workers not engaged in the work of that employer but present at the work site at which that work is being carried out, and
 - b. that the workers engaged in the work of that employer are aware of their responsibilities and duties under this Act, the regulations and the adopted code.

2. Every worker shall, while engaged in an occupation,
 - a. take reasonable care to protect the health and safety of the worker and of other workers present while the worker is working, and
 - b. co-operate with the worker's employer for the purposes of protecting the health and safety of
 - i. the worker,
 - ii. other workers engaged in the work of the employer, and
 - iii. other workers not engaged in the work of that employer but present at the work site at which that work is being carried out.
3. Every supplier shall ensure, as far as it is reasonably practicable for the supplier to do so, that any tool, appliance or equipment that the supplier supplies is in safe operating condition.
4. Every supplier shall ensure that any tool, appliance, equipment, designated substance or hazardous material that the supplier supplies complies with this Act, the regulations and the adopted code.
5. Every contractor who directs the activities of an employer involved in work at a work site shall ensure, as far as it is reasonably practicable to do so, that the employer complies with this Act, the regulations and the adopted code in respect of that work site.

Section 3 Prime contractor

1. Every work site must have a prime contractor if there are 2 or more employers involved in work at the work site at the same time.
2. The prime contractor for a work site is
 - a. the contractor, employer or other person who enters into an agreement with the owner of the work site to be the prime contractor, or
 - b. if no agreement has been made or if no agreement is in force, the owner of the work site.
3. If a work site is required to have a prime contractor under subsection (1), the prime contractor shall ensure, as far as it is reasonably practicable to do so, that this Act and the regulations are complied with in respect of the work site.
4. One of the ways in which a prime contractor of a work site may meet the obligation under subsection (3) is for the prime contractor to do everything that is reasonably practicable to establish and maintain a system or process that will ensure compliance with this Act and the

regulations in respect of the work site.

Section 4 Multiple obligations

1. In this section, ♦function♦ means the function of prime contractor, contractor, employer, supplier or worker.
2. If a person has 2 or more functions under this Act in respect of one work site, the person must meet the obligations of each function.

Section 5 Staff

1. In accordance with the *Public Service Act*, there may be appointed one or more Directors of Inspection, Directors of Medical Services, Directors of Occupational Hygiene, occupational health and safety officers and any other employees necessary for the administration of this Act.
2. The Minister may, in writing, designate
 - a. any employee of the Government as a person who may perform all or part of the duties and responsibilities of a Director of Inspection, a Director of Occupational Hygiene or an officer, or
 - b. any physician employed by the Government or any other physician as a person who may perform all or part of the duties and responsibilities of a Director of Medical Services.

Section 6 Occupational health and safety council

1. There is to be a council called the ♦Occupational Health and Safety Council♦ that shall consist of not more than 12 persons appointed by the Lieutenant Governor in Council.
2. The Minister may designate one of the members of the Council as chair and one or more of the members of the Council as vice-chairs.
3. The members of the Council shall be appointed for terms not exceeding 3 years.

4. On the expiration of a member's term of office, that member of the Council may be reappointed.
5. The members of the Council shall be paid
 - a. any remuneration that the Lieutenant Governor in Council may prescribe, and
 - b. their reasonable travelling and living expenses while absent from their ordinary places of residence and in the course of their duties as members of the Council.

Section 7 Duties of council

The Council shall

- a. advise the Minister on matters concerning this Act, the regulations and the adopted codes and potential changes to them, and the regulations and on matters concerning the health and safety of workers;
- b. hear appeals in accordance with this Act;
- c. perform any duties and functions assigned to it by the Minister with respect to the administration of this Act, the regulations and the adopted codes.

Section 8 Inspection

1. For the purposes of this Act, an officer may
 - a. at any reasonable hour enter into or on any work site and inspect that work site;
 - b. subject to subsection (2), require the production of any records, books, plans or other documents that relate to the health or safety of workers and may examine them, make copies of them or remove them temporarily for the purpose of making copies;
 - c. inspect, seize or take samples of any material, product, tool, appliance or equipment being produced, used or found in or on the work site that is being inspected;
 - d. make tests and take photographs or recordings in respect of any work site;
 - e. interview and obtain statements from persons at the work site.
2. Only a Director of Medical Services or a person authorized in writing by the Director may

require the production of, or examine and make copies of, medical reports or records or remove them temporarily for the purpose of making copies.

3. When an officer

- a. removes any records, books, plans or other documents under subsection (1)(b), the officer shall
 - i. give to the person from whom those items were taken a receipt for them, and
 - ii. forthwith make copies of, take photographs of or otherwise record those items and forthwith return them to the person to whom the receipt was given,

or

- b. seizes or takes samples of any material, product, tool, appliance or equipment under subsection (1)(c), the officer shall
 - i. give to the person from whom those items were seized or taken a receipt for them, and
 - ii. on that person's request, return those items to that person when they have served the purposes for which they were seized or taken.

4. If a person refuses to allow an officer to exercise any powers under subsection (1) or interferes or attempts to interfere with the officer in the exercise of those powers, a Director of Inspection may apply to the Court of Queen's Bench by way of originating notice for an order restraining that person from preventing or interfering in any manner with the officer in the exercise of those powers.

5. A statement given under this section is not admissible in evidence for any purpose in a trial, public inquiry under the *Fatality Inquiries Act* or other proceeding except to prove

- a. non-compliance with this section, or
- b. a contravention of section 41(3)

in an action or proceeding under this Act.

Section 9 Order to remedy unhealthy or unsafe conditions

1. When an officer is of the opinion that work is being carried out in a manner that is unhealthy or unsafe to the workers engaged in the work or present where the work is being carried out, the officer may in writing order the person responsible for the work being carried out

- a. to stop the work that is specified in the order, and

- b. to take measures as specified in the order that are, in the opinion of the officer, necessary to ensure that the work will be carried out in a healthy and safe manner,
- or either of them, within the time limits specified in the order.
- 2. When an officer is of the opinion that a person is not complying with this Act, the regulations or the adopted code, the officer may in writing order that person to take such measures, within the time limits specified in the order, as the officer considers necessary to ensure such compliance and specifies in the order.
- 3. Measures specified in the order referred to in subsection (2), where the order is made in respect of the failure by a person to comply with section 31(5) or 36, may require one or more of the following:
 - a. that the disciplinary action cease;
 - b. reinstatement of the worker to the worker's former employment under the same terms and conditions under which the worker was formerly employed;
 - c. payment to the worker of money not more than the equivalent of wages that the worker would have earned if the worker had not been dismissed or had not received disciplinary action;
 - d. removal of any reprimand or other reference to the matter from the worker's employment records.
- 4. If the worker has worked elsewhere while the dismissal or disciplinary action has been in effect, those wages earned elsewhere shall be deducted from the amount payable to the worker under subsection (3)(c).

Section 10 Danger to persons on work site

- 1. When an officer is of the opinion that a danger to the health or safety of a worker exists in respect of that worker's employment, the officer may at any time enter into or on any work site and do any or all of the following:
 - a. order the work or any part of it that is taking place to be stopped forthwith;
 - b. order any worker or other person present to leave the work site forthwith;
 - c. in writing order the prime contractor, the contractor or the employer to take measures specified by the officer that the officer considers necessary for the purpose of removing the source of the danger or to protect any person from the danger.

2. No person shall interfere with an officer in the performance of the officer's duties under this section.
3. When requested to do so by an officer, a peace officer shall assist the officer in carrying out the officer's duties under this section.

Section 11 Order stopping the use of unsafe tools, appliances, etc.

1. When an officer is of the opinion that a tool, appliance or equipment being used or that may be used by a worker

- a. is not in safe operating condition, or
- b. does not comply with the adopted code,

the officer may in writing order the worker to stop using or to refrain from using that tool, appliance or equipment.

2. When an officer is of the opinion that a supplier is supplying a tool, appliance or equipment that

- a. is not in safe operating condition, or
- b. does not comply with the adopted code,

the officer may in writing order the supplier to stop supplying that tool, appliance or equipment for use by any worker.

3. If an officer makes an order under this section, the officer may rescind that order on being satisfied that the tool, appliance or equipment in respect of which the order was made

- a. has been repaired or modified so that it is in safe operating condition, or
- b. has been made to comply with the adopted code,

as the case may be.

Section 12 Improper storage and handling

1. When an officer is of the opinion that the storage, handling or use of a substance or material does not comply with the adopted code, the officer may in writing order the person responsible for the storage, handling or use of the substance or material to take the measures

specified in the order that are, in the opinion of the officer, necessary to ensure that the standards are complied with.

2. When an officer is of the opinion that a supplier is supplying any substance or material that does not comply with the adopted code, the officer may in writing order the supplier to stop supplying that substance or material.
3. If an officer makes an order under this section, the officer may in writing rescind that order on being satisfied that the material or substance is being supplied, stored, handled or used in compliance with the adopted code.

Section 13 Licence

1. A licence may be issued in accordance with the regulations.
2. A Director may, in accordance with the regulations, cancel or suspend a licence.

Section 14 Protection of workers on a project

1. When a person has begun or is about to begin a project and a Director of Inspection or a Director of Occupational Hygiene is of the opinion that the health and safety of any worker who is or will be present at the project is not being or will not be protected, a Director may in writing order that person to stop that project or to refrain from beginning that project, as the case may be.
2. A Director of Inspection or a Director of Occupational Hygiene shall not rescind an order made under subsection (1) until the Director is satisfied that the person to whom the order was made has taken the measures that, in the opinion of a Director, will protect the health and safety of the workers concerned.
3. A Director of Inspection or a Director of Occupational Hygiene may require any person who has begun or is about to begin a project to furnish to a Director, within the time specified by a Director, the plans, drawings and specifications that are reasonably necessary for determining whether the health and safety of the workers concerned is being or will be protected.

Section 15 New project

A person who intends to begin a new project may be required to file notice in accordance with the regulations.


Section 16 Appeal

1. A person
 - a. to whom an order is issued under section 9, 10, 11, 12, 14, 25 or 33, or
 - b. whose licence has been cancelled or suspended,may appeal the order, cancellation or suspension to the Council.
2. An appeal under subsection (1) shall be commenced by serving a notice of the appeal on a Director of Inspection within 30 days from the date that the order being appealed from was served on the person making the appeal.
3. After considering the matter being appealed, the Council may by order
 - a. confirm, revoke or vary the order being appealed,
 - b. confirm the cancellation or suspension,
 - c. reinstate the cancelled licence, certificate or permit,
 - d. substitute a suspension for a cancellation, or
 - e. remove or vary a suspension.
4. When an appeal is made to the Council under subsection (1), the Council shall hear the appeal and render a decision as soon as practicable.
5. An appeal lies to the Court of Queen's Bench from an order of the Council on a question of law or a question of jurisdiction and on hearing the matter the Court may make any order, including the awarding of costs, that the Court considers proper.
6. An appeal under subsection (5) shall be made by way of originating notice within 30 days from the date that the order of the Council is served on the person appealing the order of the Council.
7. When an appeal is commenced under subsection (1), the commencement of that appeal does not operate as a stay of the order, cancellation or suspension being appealed from except insofar as the chair or a vice-chair of the Council so directs.
8. When an appeal is commenced under subsection (5), the commencement of that appeal does not operate as a stay of the order of the Council being appealed from except insofar as a judge of the Court of Queen's Bench so directs.

Section 17 Hearing of appeal

1. When the Council hears appeals under this Act, it may, at the direction of the chair, sit in one or more divisions and the divisions may sit simultaneously or at different times.
2. For the purpose of hearing appeals under this Act, 3 members constitute a quorum of the Council or of a division of the Council.
3. A division of the Council may exercise and perform all the jurisdiction, powers and duties of the Council with respect to the hearing of appeals under this Act and an order of a division is an order of the Council and binds all members of the Council.
4. The chair may designate a member of a division of the Council to preside at any sitting of a division at which the chair is not present.
5. When the Council or a division of the Council is hearing an appeal and one or more members of the Council or division, as the case may be, do not for any reason attend on any day or part of a day, the remaining members present may, if they constitute a quorum under this section, exercise and perform all the jurisdiction, powers and duties of the Council with respect to that hearing.
6. A decision of a majority of the members of the Council or a division of the Council present and constituting a quorum is the decision of the Council or of the division and in the event that there is a tie vote the chair or the presiding member, as the case may be, may cast a 2nd vote.
7. The Council may establish rules of procedure respecting the hearing of appeals before it or before a division.

Section 18 Serious injuries and accidents

1. If an injury or accident described in subsection (2) occurs at a work site, the prime contractor or, if there is no prime contractor, the contractor or employer responsible for that work site shall notify a Director of Inspection of the time, place and nature of the injury or accident as soon as possible.
2. The injuries and accidents to be reported under subsection (1) are
 - a. an injury or accident that results in death,
 - b. an injury or accident that results in a worker s being admitted to a hospital for more

- than 2 days,
- c. an unplanned or uncontrolled explosion, fire or flood that causes a serious injury or that has the potential of causing a serious injury,
 - d. the collapse or upset of a crane, derrick or hoist, or
 - e. the collapse or failure of any component of a building or structure necessary for the structural integrity of the building or structure.
3. If an injury or accident referred to in subsection (2) occurs at a work site or if any other serious injury or any other accident that has the potential of causing serious injury to a person occurs at a work site, the prime contractor or, if there is no prime contractor, the contractor or employer responsible for that work site shall
- a. carry out an investigation into the circumstances surrounding the serious injury or accident,
 - b. prepare a report outlining the circumstances of the serious injury or accident and the corrective action, if any, undertaken to prevent a recurrence of the serious injury or accident, and
 - c. ensure that a copy of the report is readily available for inspection by an officer.
4. The prime contractor, contractor or employer who prepared the report referred to in subsection (3) shall retain the report for 2 years after the serious injury or accident.
5. A report prepared under this section is not admissible as evidence for any purpose in a trial arising out of the serious injury or accident, an investigation or public inquiry under the *Fatality Inquiries Act* or any other action as defined in the *Alberta Evidence Act* except in a prosecution for perjury or for the giving of contradictory evidence.
6. Except as otherwise directed by a Director of Inspection, an occupational health and safety officer or a peace officer, a person shall not disturb the scene of an accident reported under subsection (1) except insofar as is necessary in
- a. attending to persons injured or killed,
 - b. preventing further injuries, and
 - c. protecting property that is endangered as a result of the accident.

Section 19 Investigation of an accident

1. If an accident occurs at a work site, an officer may attend at the scene of the accident and may make any inquiries that the officer considers necessary to determine the cause of the accident and the circumstances relating to the accident.
2. Every person present at an accident when it occurred or who has information relating to the accident shall, on the request of an officer, provide to the officer any information respecting the accident that the officer requests.
3. An officer may, for the purposes of determining the cause of the accident, seize or take samples of any substance, material, product, tool, appliance or equipment that was present at, involved in or related to the accident.
4. If an officer seizes or takes samples of any substance, material, product, tool, appliance or equipment under subsection (3), the officer shall
 - a. give to the person from whom those items were seized or taken a receipt for those items, and
 - b. on that person's request, return those items to that person when those items have served the purposes for which they were seized or taken.
5. Any statement given under this section is not admissible in evidence for any purpose in a trial, public inquiry under the *Fatality Inquiries Act* or other proceeding except to prove
 - a. non-compliance with this section, or
 - b. a contravention of section 41(3)in an action or proceeding under this Act.
6. A peace officer may assist an officer in carrying out the officer's duties under this section if the officer so requests.

Section 20 Medical Examination

1. A Director of Medical Services may, for the purposes of determining
 - a. the extent of any injury suffered by a worker injured in an accident that occurred in respect of that worker's occupation, or
 - b. whether a worker is suffering from an occupational disease that is related to that worker's occupation,require that worker to be medically examined by a Director of Medical Services or by the worker's physician.

2. The employer shall pay for a medical examination of a worker under subsection (1).

Section 21 Time of medical examination

1. A medical examination carried out under section 20 shall, when practicable, be performed during the normal hours of employment of the worker being examined.
2. When a worker examined under section 20
 - a. is examined during the worker's normal hours of employment, or
 - b. spends time in going to or returning from that examination during the worker's normal hours of employment,

the employer of that worker shall not deduct from that worker any wages, salary or other remuneration or benefits that that worker would have received for working during those normal hours of employment that were spent by that worker in being examined or going to or returning from that examination.

Section 22 Notice of findings

When a physician, in the course of the physician's practice as a physician, finds that a person examined by the physician is affected with or is suffering from a notifiable disease, the physician shall, within 7 days after the diagnosis of that disease, notify a Director of Medical Services in writing of the name, address and place of employment of that person and the name of the notifiable disease.

Section 23 Medical report

1. A physician who performs or supervises a medical examination of a worker as required under this Act, the regulations or the adopted code shall, on the request of a Director of Medical Services, furnish any medical reports that a Director may require.
2. A physician, nurse or first aid attendant who attends a worker who became ill or was injured while engaged in an occupation shall, on the request of a Director of Medical Services, furnish any reports that a Director may require.

Section 24 Hazards

1. If a worker is employed in a hazardous occupation or at a hazardous work site, a Director of Medical Services may
 - a. require that the worker's employer shall, within 30 days after the commencement of the worker's employment, register with a Director the worker's name and the location of the work site where the worker is employed,
 - b. require the worker to have regular medical examinations,
 - c. prescribe the type and frequency of the medical examinations,
 - d. prescribe the form and content of medical records to be compiled with respect to that worker, and
 - e. prescribe the period of time for which those medical records must be maintained.
2. When a person registered under subsection (1) terminates the person's employment with the person's employer, the employer shall notify a Director of Medical Services of that termination within 30 days after that termination.
3. The employer shall pay for medical examinations of a worker under subsection (1).

Section 25 Regular inspection of work sites

A Director may, by written order,

- a. require a prime contractor, a contractor or an employer involved in work at a work site to regularly inspect the work site for occupational hazards, and
- b. prescribe the manner, methods and procedures or any of them to be used for carrying out those inspections.

Section 26 Agreements re research and educational programs

The Minister may enter into an agreement with any person or government for the purpose of

- a. carrying out research respecting the health and safety of workers;
- b. establishing and operating training programs respecting the health and safety of workers;
- c. establishing and operating programs to train persons in first aid and emergency medical services;
- d. establishing and operating educational programs respecting the health and safety of workers.

Section 27 Consultants

1. The Minister may engage the services of experts or persons having special technical or other knowledge to advise the Minister or to inquire into and report to the Minister on matters respecting the health and safety of workers.
2. A person whose services are engaged under subsection (1) shall
 - a. be paid any remuneration that the Minister prescribes, and
 - b. be paid the person's reasonable travelling and living expenses while absent from the person's ordinary place of residence and in the course of providing the person's services to the Minister.

Section 28 Exchange of information

The Minister may enter into agreements with The Workers' Compensation Board governing the exchange between the Minister and The Workers' Compensation Board of

- a. any information or reports respecting any or all of the following:
 - i. any accidents or injuries that occur at work sites;
 - ii. any occupational diseases;
 - iii. any measures taken by prime contractors, contractors or employers to protect the health and safety of workers;
 - iv. any matter concerning the operations of prime contractors, contractors or employers;

and

- b. any statistical information respecting any or all of the following:
 - i. accidents or injuries occurring at work sites;
 - ii. occupational diseases;
 - iii. assessments made by the Board under the *Workers' Compensation Act* and the cost of claims made under that Act.

Section 28.1 Publication of information about employers

The Minister may, in order to enhance the protection of workers and the prevention of work site injuries by encouraging good and discouraging bad work site safety records,

- a. establish indices and measurements of work site injury prevention.
- b. maintain a register consisting of the names of employers and their performance, as determined by the Minister, in relation to those indices and measurements,
- c. publish, or authorize a department or agency of the Government or any other entity to publish, the information contained in that register, and
- d. collect any information needed for that register from another public body that provides the information to the Minister.

Section 29 Report on designated substances

1. If any designated substance is used, stored or manufactured at or on a work site, the person responsible for that work site shall compile a written report with respect to that designated substance containing the information and in the form prescribed by a Director of Occupational Hygiene.
2. When a person compiles written information under subsection (1), the person shall maintain that information on the work site in a location that is readily accessible to the workers and to other persons who are at that work site.
3. When a person compiles written information under subsection (1), that person shall, on the request of a Director of Occupational Hygiene, furnish a Director with copies of that written information.

Section 30 Controlled product

If a controlled product is used, stored, handled or manufactured at a work site, the prime contractor or, if there is no prime contractor, the contractor or employer responsible for that work site shall ensure that

- a. the controlled product is labelled in accordance with the adopted code,
- b. a material safety data sheet for the controlled product, containing the information required by the adopted code, is made readily available to workers at the work site, and
- c. a worker who works with a controlled product or in proximity to a controlled product receives education, instruction or training with respect to the controlled product in accordance with the adopted code.

Section 31 Joint work site health and safety committees

1. The Minister may, by order, require that there be established at any work site a joint work site health and safety committee that shall
 - a. identify situations that may be unhealthy or unsafe in respect of the work site,
 - b. make recommendations to prime contractors, contractors, employers and workers for the improvement of the health and safety of workers at or on the work site,
 - c. establish and maintain educational programs regarding the health and safety of workers at or on the work site, and

- d. carry out those duties and functions prescribed by the adopted code.
2. A joint work site health and safety committee shall consist of workers who represent the workers at the work site and persons who represent the prime contractor, contractors and employers involved in work at the work site.
3. The number of persons on a joint work site health and safety committee who represent the prime contractor, contractors and employers shall not exceed in total the number of workers on the committee who represent the workers at the work site.
4. A joint work site health and safety committee shall hold its meetings and carry out its duties and functions during normal working hours.
5. No disciplinary action shall be taken against a member of a joint work site health and safety committee by reason of that member performing duties and functions as a member of that committee.

Section 32 Written health and safety policies

A prime contractor, contractor or employer, if required by or under the regulations or the adopted code, shall

- a. state that person's policy in writing for the protection and maintenance of the health and safety of that person's workers on the work site,
- b. state the arrangements to implement that policy, and
- c. as far as is reasonably practicable, inform that person's workers of the policy.

Section 33 Code of practice

1. A prime contractor, contractor or employer involved in work at a work site may be required
 - a. by a written order of a Director, or
 - b. by the regulations or the adopted codeto establish a code of practice and to supply copies of it to a Director.
2. A code of practice shall include practical guidance on the requirements of the regulations or the adopted code applicable to the work site, safe working procedures in respect of the work

site and other matters as required by a Director, the regulations or the adopted code.

3. A prime contractor, contractor or employer who establishes a code of practice pursuant to subsection (1) shall ensure that
 - a. a copy of the code of practice is readily available to the workers and other persons at the work site, and
 - b. all workers to whom the code of practice applies receive appropriate education, instruction or training with respect to the code so that they are able to comply with its requirements.
4. A Director may from time to time require that the code of practice be revised.

Section 34 Acceptances

1. A Director may, in accordance with the regulations, issue in writing an acceptance to a prime contractor, contractor or employer if, in the Director's opinion, an alternative tool, appliance, equipment, work process, first aid service or first aid supplies or equipment at a work site provides equal or greater protection than that provided for by the regulations or the adopted code to persons affected by the tool, appliance, equipment, work process, first aid service or first aid supplies or equipment.
2. A Director may impose terms and conditions the Director considers necessary on the acceptance and those terms and conditions are part of the acceptance.
3. An acceptance is in effect only during the period prescribed in it and, notwithstanding anything in this Act, the regulations or the adopted code, during that period the terms, conditions or requirements set out in it apply with respect to the tool, appliance, equipment or work process at the work site to which the acceptance applies.
4. A prime contractor, contractor or employer who is issued an acceptance shall ensure that the acceptance is complied with.
5. The *Regulations Act* does not apply to an acceptance issued by a Director.

Section 35 Existence of imminent danger

1. No worker shall

- a. carry out any work if, on reasonable and probable grounds, the worker believes that there exists an imminent danger to the health or safety of that worker,
- b. carry out any work if, on reasonable and probable grounds, the worker believes that it will cause to exist an imminent danger to the health or safety of that worker or another worker present at the work site, or
- c. operate any tool, appliance or equipment if, on reasonable and probable grounds, the worker believes that it will cause to exist an imminent danger to the health or safety of that worker or another worker present at the work site.

2. In this section, ♦imminent danger♦ means in relation to any occupation

- a. a danger that is not normal for that occupation, or
- b. a danger under which a person engaged in that occupation would not normally carry out the person♦s work.

3. A worker who

- a. refuses to carry out work, or
- b. refuses to operate a tool, appliance or equipment

pursuant to subsection (1) shall, as soon as practicable, notify the worker♦s employer at the work site of the worker♦s refusal and the reason for the worker♦s refusal.

4. On being notified under subsection (3), the employer shall

- a. investigate and take action to eliminate the imminent danger,
- b. ensure that no worker is assigned to use or operate the tool, appliance or equipment or to perform the work for which a worker has made a notification under subsection (3), unless
 - i. the worker to be so assigned is not exposed to imminent danger, or
 - ii. the imminent danger has been eliminated,
- c. prepare a written record of the worker♦s notification, the investigation and action taken, and
- d. give the worker who gave the notification a copy of the record described in clause (c).

5. The employer may require a worker who has given notification under subsection (3) to remain at the work site and may assign the worker temporarily to other work assignments that the worker is reasonably capable of performing.

6. A temporary assignment under subsection (5), if there is no loss in pay, is not disciplinary action for the purposes of section 36.

7. If a worker who receives a record under subsection (4)(d) is of the opinion that an imminent danger still exists, the worker may file a complaint with an officer.
8. An officer who receives a complaint under subsection (7) shall prepare a written record of the worker's complaint, the investigation and the action taken and shall give the worker and the employer a copy of the record.
9. A worker or an employer who receives a record under subsection (8) may request a review of the matter by the Council by serving a notice of appeal on a Director of Inspection within 30 days from the date of receipt of the record.
10. After considering the matter, the Council may by order
 - a. dismiss the request for a review, or
 - b. require the employer to eliminate the imminent danger.
11. An appeal lies to the Court of Queen's Bench from an order of the Council on a question of law or a question of jurisdiction and on hearing the matter the Court may make any order, including the awarding of costs, that the Court considers proper.
12. An appeal under subsection (11) shall be made by way of originating notice within 30 days from the date that the order of the Council is served on the person appealing the order of the Council.
13. The commencement of an appeal under subsection (11) does not operate as a stay of the order of the Council being appealed from except insofar as a judge of the Court of Queen's Bench so directs.

Section 36 Where disciplinary action prohibited

No person shall dismiss or take any other disciplinary action against a worker by reason of that worker acting in compliance with this Act, the regulations, the adopted code or an order given under this Act or the regulations.

Section 37 Disciplinary action complaint

1. A worker who has reasonable cause to believe that the worker has been dismissed or subjected to disciplinary action in contravention of section 31(5) or 36 may file a complaint with an officer.

2. An officer who receives a complaint under subsection (1) shall prepare a written record of the worker's complaint, the investigation and the action taken and shall give the worker and the employer a copy of the record.
3. A worker or an employer who receives a record under subsection (2) may request a review of the matter by the Council by serving a notice of appeal on a Director of Inspection within 30 days from the receipt of the record.
4. After considering the matter, the Council may by order
 - a. dismiss the request for a review, or
 - b. require one or more of the following:
 - i. reinstatement of the worker to the worker's former employment under the same terms and conditions under which the worker was formerly employed;
 - ii. cessation of disciplinary action;
 - iii. payment to the worker of money not more than the equivalent of wages that the worker would have earned if the worker had not been dismissed or had not received disciplinary action;
 - iv. removal of any reprimand or other reference to the matter from the worker's employment records.
5. If the worker has worked elsewhere while the dismissal or disciplinary action has been in effect, those wages earned elsewhere shall be deducted from the amount payable to the worker under subsection (4)(b)(iii).
6. An appeal lies to the Court of Queen's Bench from an order of the Council on a question of law or a question of jurisdiction and on hearing the matter the Court may make any order, including the awarding of costs, that the Court considers proper.
7. An appeal under subsection (6) shall be made by way of originating notice within 30 days from the date that the order of the Council is served on the person appealing the order of the Council.
8. The commencement of an appeal under subsection (6) does not operate as a stay of the order of the Council being appealed from except insofar as a judge of the Court of Queen's Bench so directs.

Section 38 Board of inquiry

1. The Minister may, when the Minister considers it in the public interest to do so, by order appoint a board of inquiry of one or more persons to inquire into
 - a. any matter concerning the health or safety of workers employed
 - i. at a particular work site or at several work sites,
 - ii. by a particular employer or by a group of employers, or
 - iii. in an industry,
 - or
 - b. the circumstances surrounding and the causes of an accident.
2. A person appointed to a board of inquiry under this section has all the powers of a commissioner appointed under the *Public Inquiries Act*.

Section 39 Administration costs



1. For the purpose of defraying part of the costs of administering this Act,
 - a. the Minister shall, if authorized by the regulations, make assessments on employers, or
 - b. The Workers' Compensation Board shall, if an agreement is entered into under subsection (2)(b), pay to the Provincial Treasurer amounts that may be prescribed by the Lieutenant Governor in Council.
2. The Minister and The Workers' Compensation Board may enter into an agreement under which the Board is required to either
 - a. collect on behalf of the Crown in right of Alberta assessments made on employers by the Minister, or
 - b. pay to the Provincial Treasurer amounts that may be prescribed by the Lieutenant Governor in Council.

Section 40 Lieutenant Governor in Council regulations

1. The Lieutenant Governor in Council may make regulations
 - a. establishing health and safety rules for or in connection with occupations and work sites, including

- i. reporting, medical and health requirements, and
 - ii. the making available of notices issued by a Director and of orders made under, and other information and documents required by, this Act or the regulations;
 - b. providing for any matter or thing which by this Act may or is to be provided for by the regulations;
 - c. respecting the establishment, composition and operation of a board dealing with first aid training;
 - d. respecting licences and licensing, including qualifications to obtain and hold licences and the maintenance of a registry of licensees;
 - e. specifying which work sites are mines or quarries for the purposes of this Act;
 - f. respecting fees;
 - i. to be paid by the Government to physicians for services performed, and
 - ii. for licences and for services and materials provided
 - under this Act, the regulations and the adopted codes;
 - g. respecting acceptances referred to in section 34;
 - h. establishing and otherwise respecting a system of fixed fines or penalties for contraventions of this Act, the regulations and any adopted code, including mechanisms for administering and enforcing that system and the disposition of the fines or penalties collected under the system;
 - i. authorizing the making of orders relating to any matters falling within the scope of clauses (a), (d) or (g) or section 40.1(1)(a);
 - j. enabling any particular subject-matter covered by clause (a) to be dealt with by an adopted code.
2. If regulations are made under subsection (1)(h), those regulations operate notwithstanding anything in the *Financial Administration Act*.

Section 40.1 Ministerial orders and codes

1. The Council may make a code of rules (in this section referred to as an  OHS code )
- a. respecting specific health and safety matters for or in connection with occupations and

work sites, including

- i. reporting requirements and the maintenance and preservation of documents reported,
 - ii. medical and health requirements,
 - iii. joint work site health and safety committees,
 - iv. the making available of codes of practice and other information and documents required by an adopted code, and
 - v. the instruction, supervision and qualifications of specified persons,
 - b. providing for the prevalence of specified provisions of an adopted code over other specified provisions of an adopted code, and
 - c. providing for any matter or thing which by this Act or the regulations may or is to be provided for by an adopted code.
2. The Minister may, after consulting with such representatives of employers and of workers in the industries that will be affected by the code as the Minister considers appropriate, make an order adopting any code that is lawfully made by the Council under subsection (1).
 3. An OHS code may itself adopt or incorporate another specific code (in this section referred to as a **secondary code**) or part of a secondary code, as that secondary code or part exists as at a particular time, dealing with healthy and safety matters that are within the Council's jurisdiction under subsection (1).
 4. To avoid doubt, an adopted code is an enactment for the purposes of construing the *Provincial Offences Procedures Act*.
 5. The Minister shall ensure that each adopted code is adequately published in such form as the Minister considers will make it reasonably available, at no expense or at reasonable expense, to all those likely to be affected by it.
 6. To avoid doubt, the *Interpretation Act* applies with respect to an OHS code.
 7. Except to the extent that an OHS code otherwise provides, where there is any conflict between any provisions in an OHS code and any provisions in a secondary code, the former prevail against the latter.

Section 40.2 Provisions affecting the regulations and adopted codes

1. Any provision of the regulations or an adopted code may be made to apply generally or to a particular occupation, work site, prime contractor, owner, employer, contractor, supplier or worker or any class of any such category.
2. Except to the extent that the regulations otherwise provide, where there is any conflict between any provisions in the regulations and any provisions in an adopted code, the former prevail against the latter.

Section 41 Offences

1. A person who contravenes this Act, the regulations or an adopted code or fails to comply with an order made under this Act or the regulations or an acceptance issued under this Act is guilty of an offence and liable
 - a. for a first offence,
 - i. to a fine of not more than \$500 000 and in the case of a continuing offence, to a further fine of not more than \$30 000 for each day during which the offence continues after the first day or part of a day, or
 - ii. to imprisonment for a term not exceeding 6 months,or to both fines and imprisonment, and
 - b. for a 2nd or subsequent offence,
 - i. to a fine of not more than \$1 000 000 and in the case of a continuing offence, to a further fine of not more than \$60 000 for each day or part of a day during which the offence continues after the first day, or
 - ii. to imprisonment for a term not exceeding 12 months,or to both fines and imprisonment.
2. Notwithstanding subsection (1), a person who fails to comply with an order made under section 10 or as varied under section 16 is guilty of an offence and liable to a fine of not more than \$1 000 000 or imprisonment for a term not exceeding 12 months or to both fine and imprisonment.
3. A person who knowingly makes any false statement or knowingly gives false information to an officer or a peace officer engaged in an inspection or investigation under section 8 or 19 is guilty of an offence and liable to a fine of not more than \$1000 or to imprisonment for a term not exceeding 6 months or to both fine and imprisonment.

4. A prosecution under this Act may be commenced within 2 years after the commission of the alleged offence, but not afterwards.

Section 41.1 Additional powers of court to make directions

1. Where a person is convicted of an offence against this Act, in additional or as an alternative to taking any other action provided for in this Act, the court may, having regard to the nature of the offence and the circumstances surrounding its commission, make an order directing the person
 - a. to establish or to revise
 - i. the policy referred to in section 32(a) and arrangements referred to in section 32(b), or
 - ii. a training or educational program regarding the health or safety of workers at the work site,
 - b. to take specific action to improve health and safety at work sites, or
 - c. to take any other action specified in the regulations.
2. The order may contain any substance or conditions that the court considers appropriate.

Section 42 Enforcement of compliance with order

When

- a. an order has been made under this Act or the regulations by a Director of Inspection, a Director of Medical Services, a Director of Occupational Hygiene, an officer or the Council, and
- b. the person to whom that order has been made is carrying on the work without complying with that order,

a Director of Inspection may, notwithstanding that the person to whom the order was made may or may not have been prosecuted under this Act for not complying with that order, apply by way of originating notice to the Court of Queen's Bench for an order of the Court requiring that person to comply with the order made by a Director of Inspection, a Director of Medical Services, a Director of Occupational Hygiene, an officer or the Council, as the case may be.

Section 43 Awarding of costs

On an application under section 8(4), 42 or 44, the Court may make any award as to costs that it considers proper.

Section 44 Service of orders

1. When an order is made in writing under this Act or the regulations, that order shall be served
 - a. by personal service on the person to whom it is made,
 - b. by double registered mail if the post office receipt for the envelope containing the order is signed by the person to whom the order is made, or
 - c. as directed by the Court of Queen's Bench on an application made by way of originating notice.
2. An application under subsection (1)(c) may be made ex parte if the Court considers it proper to do so.
3. When an order is made orally under section 10(1)(a) or (b), that order is deemed to have been served on the person to whom it is made at the time that the oral order is made to that person.

Section 45 Grants

1. The Minister may make grants if
 - a. the Minister is authorized to do so by regulations under this section, and
 - b. there is authority available in a supply vote for the purpose for which the grant is to be made.
2. The Lieutenant Governor in Council may make regulations
 - a. authorizing the Minister to make grants;
 - b. prescribing the purposes for which grants may be made;

- c. governing applications for grants;
 - d. prescribing the persons or organizations or classes of persons or organizations eligible for grants;
 - e. specifying the conditions required to be met by any applicant for a grant to render that person eligible for the grant;
 - f. prescribing the conditions on which a grant is made and requiring the repayment of it to the Government if the conditions are not met;
 - g. providing for the payment of any grant in a lump sum or by instalments and prescribing the time or times at which the grant or the instalments may be paid;
 - h. limiting the amount of any grant or class of grant that may be made;
 - i. authorizing the Minister to delegate in writing to any employee of the Government any duty, power or function respecting the payment of any grant;
 - j. requiring any person receiving a grant to account for the way in which the grant is spent in whole or in part;
 - k. authorizing the Minister to enter into an agreement with respect to any matter relating to the payment of a grant.
3. Any regulation made under subsection (2) may be specific or general in its application.

Section 46 Act binds Crown

The Crown is bound by this Act.



Section 47 Transitional regulations

1. Notwithstanding section 16 of the *Occupational Health and Safety Amendment Act*, 2002 but subject to anything to the contrary in the regulations under section 40(1), any regulation under this Act, as that regulation existed immediately before the commencement of that section, continues in force until it is repealed under this section, and that regulation may be repealed by
 - a. an order under section 40.1 dealing with code provisions that deal with subject-matters

dealt with by that regulation, or

b. the regulations,

as the case may be.

2. Notwithstanding section 1(aa.1), a regulation continued by subsection (1), while still in force, is included in the term the regulations so far as it is not inconsistent with the regulations under section 40(1).