

## Member's Quarterly

Spring 2018 Edition

## Feature

## New OHS Requirements in Alberta

*Update your health and safety management programs*

**E**mployers and other workplace stakeholders have little time to waste in preparing for the upcoming changes to Alberta's Occupational Health and Safety legislation. Most of the OHS changes take effect June 1, 2018.

While time will tell if meaningful improvements are achieved, we know this overhaul of Alberta's OHS laws will impose further layers of substantive and administrative obligations on employers.

The scale of changes to Alberta's OHS legislation will be dramatic, including:

- Broadening the concept of workplace "health and safety" to include the requirement that employers and other stakeholders ensure the psychological and social well-being of workers. This will include the requirement to protect against harassment, bullying and psychological violence.
- Expanding the definition of employer to include any person who employs or engages a worker (including self-employed persons and persons engaged for no monetary compensation), any person designated as the employer's representative, and any director, officer or other person employed by an employer to oversee the health and safety of its workers.
- Imposing more general duties on employers under the *Alberta OHS Act*, including:
  - ◇ ensuring the health, safety and welfare of their workers, other workers present at the worksite, and members of the public at or in the vicinity of the worksite who may be affected by workplace hazards;
  - ◇ ensuring workers are aware of their duties and rights under the *OHS Act*, Regulations and Code, as well as any health and safety issues arising from the work being conducted;
  - ◇ ensuring workers are adequately trained in all matters necessary to protect their health and safety before starting;
  - ◇ ensuring workers are not subjected to or participate in workplace harassment or violence;
  - ◇ ensuring workers are supervised by someone competent and familiar with the relevant requirements of the *OHS Act*, Regulations, and Code;
  - ◇ establishing and consulting with a worksite safety representative or joint worksite health and safety committee;
  - ◇ resolving in a timely manner any health and safety concerns raised in the workplace;
  - ◇ advising the prime contractor (where applicable) of the names of their supervisors; and
  - ◇ making all health and safety information readily available to the joint worksite health and safety committee, health and safety representative, workers, and prime contractor, where applicable.
- Changing when prime contractors are required at a worksite and expanding their general duties under the *OHS Act*.
- Adding to the list of stakeholders responsible for workplace health and safety under the *OHS Act*, including supervisors, owners, service providers and temporary staffing agencies.



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- Expanding the scope of work that workers may refuse to perform, and enhancing pay protection for those that do. The duty to refuse work that poses an imminent danger will be replaced with the right to refuse work whenever it is reasonably believed that there is a dangerous condition at the worksite or the work constitutes a danger to the health and safety of any person. Workers will be entitled to be paid their normal wages and benefits while a work refusal is being investigated; they may be temporarily assigned to alternative work.
- Expanding the protection of workers against reprisal. Employers will now face a presumption of improper motive any time they take action in respect to any terms or conditions of employment of a worker who has refused work, raised health and safety concerns, or otherwise participated in activities under *OHS Act*, Regulations, or Code.
- Increasing the requirement for workforce participation in health and safety management by requiring the establishment of a health and safety representative or joint worksite health and safety committee at many worksites. Committees will be required at any worksite with 20 or more workers if work is expected to last 90 days or more, with at least half of the members being selected by the workforce. Designated health and safety representatives will be required at worksites with 5–19 workers if work is expected to last 90 days or more, and must be selected by the workforce.
- Expanding incident reporting obligations. Those incidents that must be reported as soon as possible to a Director of Inspection will now include, among other things, any injury that results in a hospital admission. For these incidents, as well as near misses, further investigation and reporting obligations will apply, culminating in the preparation of an investigation report.
- Expanding the powers of OHS officers to issue stop work orders (e.g., by authorizing officers to stop work at multiple worksites through a single order).
- Overhauling the OHS appeal process. The OHS director will review certain OHS officer orders and decisions, and the Alberta Labour Relations Board will hear appeals of other matters.

Given the breadth and significant nature of these changes, Alberta businesses will need to review the changes and adjust their health and safety management programs accordingly.

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