

Alberta Occupational Health and Safety Act

Highlights of changes effective June 1, 2018

The Alberta *Occupational Health and Safety (OHS) Act* establishes minimum standards for healthy and safe practices in Alberta workplaces. These laws are enforced through inspections, investigations, orders, administrative penalties, fines and prosecutions.

OHS Act changes take effect on **June 1, 2018**, except role changes for the OHS Council, which took effect on December 15, 2017.

Changes to the OHS Act improve the OHS system to better protect workers and ensure they have the same rights and protections as other Canadian workers.

Occupational health and safety review

Alberta had not reviewed its OHS system since 1976 and the changes take effect June 1.

Alberta Labour received more than 1,300 survey responses and nearly 90 written submissions from Albertans and more than 200 stakeholders participated in eight roundtable discussions across the province. Feedback informed changes to the act.

Changes from the current OHS Act

Enshrining workers' rights:

Right to know

- All employers must inform workers about potential hazards and have access to basic health and safety information on site.



Right to participate in workplace health and safety

- Ensures workers are involved in health and safety discussions, including participation in health and safety committees.

Right to refuse dangerous work

- Workers may refuse to perform dangerous work and are protected from any form of reprisal for exercising this right.
- A worker must continue to be paid while a work refusal is being investigated.
- Other workers may be assigned to the work if they are advised of the refusal, reason for it, and made aware of their own right to refuse the work after the employer determines there is not a risk.

Roles and responsibilities:

Obligations of work site parties

All work site parties must cooperate with anyone exercising a duty under the legislation. Work site parties must provide one another health and safety information, including what information to provide and how to do so.

- Employers are responsible for:
 - Ensuring the health, safety and welfare of workers.
 - Ensuring workers are aware of their rights and duties under the law and are aware of any health and safety issues.
 - Providing competent supervisors, training workers, and preventing violence and harassment.
 - Ensuring public safety at or in the vicinity of work sites.
 - Working with the joint work site health and safety committee or health and safety representative.

- Supervisors must be competent, protect the health and safety of workers, advise workers of all health and safety hazards, report all health and safety concerns to the employer, and prevent violence and harassment.
- Workers are responsible for ensuring the health and safety of themselves and others, cooperating with their employer/supervisor for purposes of health and safety, using all devices and wear all required personal protective equipment (PPE), report unsafe or unhealthy conditions, and refrain from causing or participating in violence and harassment.
- Contractors are responsible for ensuring that work being performed by employers under their control does not endanger the health and safety of persons at the work site.
- Owners of work sites are responsible for ensuring the land, infrastructure and any building or premise under its control is provided and maintained in a manner that does not endanger anyone.
- Prime contractors are only required at construction sites, oil and gas sites and any other work site designated by a Director. Their obligations otherwise remain the same.
- Suppliers must ensure their products are safe to use and comply with the legislation; and any equipment and harmful substances provided include manufacturer's specifications or other instructions for safe use (if they exist). Suppliers must provide notice when their product or equipment doesn't comply with the law.
- Service providers must ensure the services provided comply with the law, are provided by a competent person, and do not create a hazard.
- Self-employed persons are responsible for complying with all the OHS rules that apply to employers and to workers, and ensuring that they don't create hazards for themselves and others.
- Temporary staffing agencies must ensure workers are suitable for the work, have or will receive the PPE they need, and that the host employer is capable of looking after the worker's health and safety.

The act defines harassment and violence to address workplace bullying and physical and psychological harm, including sexual and domestic violence.

Expanded rules prohibit any person from taking or threatening discriminatory action against workers for exercising their rights and duties under the law that protects workers from reprisal.

Program and practice:

Joint work site health and safety committees (HSC) and representatives



- Employers with 20 or more workers at a work site and work lasting 90 days or more are required to have a HSC.
- A Director can order any other work site to establish a HSC.
- Employers or work sites with 5-19 workers and work lasting 90 days or more are required to have a health and safety representative.

Health and safety program

- Employers with 20 or more workers must have a written health and safety program.
 - The program must have 10 elements and be reviewed at least every three years.
 - Where no program is required, the employer must involve workers in hazard assessment and control.

New OHS Advisory Council

- The OHS Council is replaced by the OHS Advisory Council. Its function is to provide specialized advice to government.

Acceptances and approvals

- Acceptances and approvals can be issued to a broad range of parties including employers, self-employed persons, suppliers, owners and prime contractors, and groups of these parties.
- Acceptances and approvals remain in effect for a maximum of five years. They will be published to the Alberta Labour website.

Duties of government

- The legislation clarifies the roles, responsibilities and authorities of government for OHS.
- The act and its administration must be reviewed every five years. The Minister is also required to annually publish a three-year plan for the review of the OHS regulations and the OHS code.

Medical examinations

- Medical examinations ordered under the *OHS Act* can only happen with the worker's consent. The worker's wages, benefits, and cost of the examination are the employer's responsibility.

- Physicians, along with other health care professionals, are required to report a person affected with, or suffering from, a notifiable disease.
- The Director of Medical Services has expanded access to medical information for preventing occupational illness and injury.

Improved review and appeals process

- The appeals process applies to refusals to do dangerous work, orders to remedy unhealthy or unsafe work conditions, orders involving improper storage and handling of substances or materials, stop work/stop use orders, director's orders, administrative penalties, and discriminatory action decisions.
- The act recognizes a two-level appeal process. The first level involves internal review and a decision by a Director of Inspection. These may then go to a second review by the Alberta Labour Relations Board.
- The process for hearing appeals aligns with practices currently used by the Alberta Labour Relations Board.
- Transitional appeal requirements are in place to deal with appeals in progress.

Compliance and enforcement:

Inspections and investigations

- OHS officers have the authority to enter a private dwelling that is a work site, but require the owner's or occupant's consent or a court warrant.
- OHS officers have the authority to interview any person who has information relevant to an inspection or investigation, regardless of their location, and access electronic records.
- Technical experts may accompany an officer at a work site.
- OHS officers have the authority to issue a stop work order, which applies to multiple work sites of a single employer.
- When a stop work or stop use order is issued, affected workers must continue to be paid their normal wages and benefits. Employers have the option of reassigning affected workers to alternate work.
- The sale, rental, lease or transferring equipment subject to a stop use order is prohibited.
- Suppliers may be ordered to stop supplying any substance or material that does not comply with the OHS legislation.
- The person who receives a compliance order is required to report back to OHS on measures taken to remedy the contravention(s), provide a copy of the report to their health

and safety committee or representative, and post the report at the work site.



- The Court has additional options for directing how creative sentencing penalties can be used. This includes training and education programs, research, and scholarships.

Reporting incidents

- Injuries resulting in a worker being admitted to hospital must be reported to Alberta Labour. This replaces the previous threshold of having to be in hospital for two days.
- Employers must report "potentially serious" incidents to Alberta Labour. A **Potentially Serious Incident (PSI)** is any event where a reasonable and informed person would determine that under slightly different circumstances, there would be a high likelihood for a serious injury to a person. A PSI is not limited to workers and it does not require the occurrence of an injury.

Information sharing:

Agreements for research and educational programs

- Government can enter into agreements with a wider range of parties, including any government, person, agency and organization.

Exchange of information

- Alberta Labour can share data with other government bodies, agencies, and external organizations beyond the WCB-Alberta.

Publishing information

- Publication of information about work site parties has been expanded to make more and better information available to Albertans at regular intervals.
- Additional information that will be shared includes orders issued, administrative penalties, tickets issued to employers (but not workers), investigation reports completed by an officer, acceptances issued, and approvals issued.

OVERVIEW OF CHANGES TO THE *OHS ACT* (2018)

Current requirement	Requirement on June 1, 2018	Explanation
Responsibilities of work site parties		
<p>Roles and responsibilities of existing work site parties are not aligned with the rest of Canada.</p> <p>Supervisors, owners, service providers, self-employed persons, and temporary staffing agencies do not have specific roles or responsibilities in the <i>OHS Act</i>.</p>	<p>Roles and responsibilities for existing work site parties (employers, workers, prime contractors and suppliers), and new roles and responsibilities for supervisors, owners, service providers, self-employed persons, and temporary staffing agencies.</p> <p>Employers and supervisors have new responsibilities to prevent workplace harassment and violence and make sure that workers refrain from these activities.</p>	<p>The roles and responsibilities of all work site parties for OHS need to be clarified to enhance accountability and align with the rest of Canada.</p>
Duty of work site parties to provide health and safety information		
<p>Current requirements to provide health and safety information are fragmented throughout the OHS regulation and OHS code.</p>	<p>Clarify the requirements for work site parties to provide health and safety information to each other, and clarify which documents must be made available in the workplace and how.</p>	<p>The right to know is a fundamental principle of the internal responsibility system. All work site parties must have basic hazard information to ensure a healthy and safe workplace and this information is in the act. The intent is to ensure information on health and safety is available and flows between work site parties.</p>
Harassment and violence		
<p>Physical violence is defined and addressed in the OHS code. There are no definitions or explicit provisions around the responsibility to prevent workplace harassment.</p>	<p>Include definitions for harassment and violence that explicitly describe what they mean.</p>	<p>The new definitions address psychosocial hazards and clarify that all forms of violence (including sexual and domestic violence) are included.</p>
Joint work site health and safety committees (HSC) and representatives		
<p>HSCs are only required under a Ministerial Order for specific work sites. Requirements describing how a mandated committee operates are provided in the OHS code.</p> <p>There is no requirement for health and safety representatives.</p>	<p>Require the establishment of HSCs for work sites with 20 or more workers and work lasting 90 days or more, and the designation of a health and safety representative to represent workers for employers/work sites with 5 to 19 workers.</p> <p>Details the duties of HSCs and representatives, as well as how issues are addressed, training of committee members</p>	<p>Provides a forum in the workplace to participate in OHS and increase worker engagement in OHS issues. This aligns with requirements in the rest of Canada.</p>

Current requirement	Requirement on June 1, 2018	Explanation
	and representatives, and the operation of committees.	
Right to refuse dangerous work		
Workers have a duty to refuse work if it presents an “imminent danger” to themselves or other workers at the work site. “Imminent danger” is a danger that is not normal for an occupation.	<p>Introduce a right to refuse dangerous work. Once the refusal is reported, the employer must investigate and involve the HSC or representative, as appropriate, in the investigation.</p> <p>The worker must continue to be paid normal wages and benefits during the investigation. Another worker may be assigned to the work if advised of the refusal, reason for the refusal and reminded that he or she has a right to refuse the work.</p>	A right to refuse commits employers to ensuring workers know the hazards, know what to report, and have the support to exercise their right. This change aligns with workers' rights in most of Canada.
Workers protected from discriminatory action		
<p>No person can dismiss or take other disciplinary action against workers because they have exercised their duties under the law.</p> <p>Complaints may be referred to an OHS officer who will investigate.</p>	<p>Expand rules prohibiting any person from taking or threatening discriminatory action against workers for exercising their rights and duties under the law. “Discriminatory action” is defined.</p> <p>Complaints may be referred to an OHS officer who will investigate.</p> <p>The onus is on the employer to show that action was taken against the worker for a reason other than fulfilling an OHS duty or responsibility.</p>	<p>There is a gap in OHS legislation which may allow an employer to threaten a worker with discriminatory action. This could prevent workers from refusing dangerous work or complying with OHS legislation. To exercise their rights, workers must be protected from reprisal.</p> <p>The legislation is not explicit around what constitutes “disciplinary action” and provisions need to be aligned with those in the rest of Canada.</p>
Health and safety program		
No requirement for health and safety programs.	<p>Require employers with 20 or more workers to establish and implement a health and safety program. The program has 10 mandated elements and must be reviewed and updated at least every 3 years.</p> <p>Employers with fewer than 20 workers must involve workers in hazard assessment and control.</p>	A health and safety program is a way of integrating OHS into work site practices. OHS programs are required by most OHS legislation in Canada.

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OHS Council		
OHS Council reviews potential changes to the OHS code, presents the code to the Minister for adoption, hears OHS appeals, and advises the Minister on OHS matters.	The new OHS Advisory Council will provide specialized OHS advice to government. This may include reviewing the <i>OHS Act</i> and its administration at the request of the Minister.	OHS Council's role has remained virtually unchanged since the inception of the <i>OHS Act</i> . A renewal of its role refocuses its efforts and allows government to streamline processes for all labour related appeals and OHS regulatory updates.
Reporting serious injuries, incidents and fatalities		
<p>Serious injuries which result in two-day hospitalization must be reported to Alberta Labour.</p> <p>Employers are required to investigate near miss incidents but not to report them to Alberta Labour.</p> <p>Reportable mining incidents are in the OHS code.</p>	<p>Change the threshold for reporting serious injuries to hospital admission, require incidents with the potential to cause serious injury (potentially serious incidents) to be reported, and consolidate reportable mining incidents into the <i>OHS Act</i>.</p>	<p>The two-day hospitalization threshold can create delays in reporting which impact incident investigation.</p> <p>Accurate reporting of serious injuries, incidents and occupational disease is necessary to ensure adequate compliance, enforcement and prevention efforts.</p> <p>Moving reportable mining incidents out of the OHS code groups all reporting requirements together in the act.</p>
Medical examinations		
<p>The Director of Medical Services may require a worker to have a medical examination and may require medical reports to be submitted by a physician, nurse or first aid attendant.</p> <p>The <i>OHS Act</i> does not state that workers may refuse a medical examination.</p>	<p>Provide the Director of Medical Services with enhanced ability to access information for the purposes of enforcement and prevention of occupational injury and disease.</p> <p>Ensure workers have the option to refuse medical examinations.</p>	<p>Changes to the access of medical information reflect modern delivery of medical services and will improve the surveillance of occupational illnesses and diseases to enhance prevention efforts.</p> <p>Workers have the right to refuse medical examinations as guaranteed by the <i>Charter of Rights and Freedoms</i>.</p>
Compliance and enforcement tools		
OHS officers can write a compliance order and impose measures, can write stop work or stop use orders.	<p>Modernize orders, stop work orders, stop use orders.</p> <p>Ensure that affected workers at a work site subject to a stop work or stop use order are protected; they may be reassigned to other work but receive their regular wages and benefits.</p>	<p>The updates address changes in workplaces and technology; enhance the powers of officers to ensure that officers have the appropriate tools to conduct responsive and effective compliance and enforcement.</p> <p>Workers should not be penalized for their employer's or other work site parties' non-</p>

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	Require the party to whom the order was issued to report back to the officer and HSC (or representative) on how the work site party complied with the order.	compliance with the OHS legislation. Changes to legislation provide a feedback loop to allow the OHS officer to evaluate compliance and ensure the HSC or representative are informed.
Acceptances and approvals		
<p>Directors can recognize an alternate standard or equipment if it provides equal or better protection to workers. Parties to whom an acceptance can be issued are limited and there are no details regarding the application and review process.</p> <p>Directors can issue approvals under the OHS regulation and OHS code; the <i>OHS Act</i> makes no reference to approvals.</p> <p>The <i>OHS Act</i> does not address recognition of standards in other jurisdictions.</p>	<p>Clarify requirements for acceptances to ensure that work site parties have the ability to provide input and streamline processes.</p> <p>Add statutory authority for directors to issue approvals.</p> <p>Add authority for directors to recognize standards in OHS legislation in other Canadian jurisdictions.</p>	Provides consistent processes for evaluating acceptance and approval applications and allows for coordination across provinces.
Offences and penalties		
The Court may impose a creative sentence that furthers OHS education programs.	Expand the ability of the Court to impose creative sentences and provide oversight.	Creative sentencing allows for connection between the infraction and the remedy.
OHS Directors and officers		
<p>Director and OHS officer authorities are fragmented throughout the <i>OHS Act</i>.</p> <p>OHS officer powers have mainly remained unchanged since the inception of the <i>OHS Act</i>.</p> <p>An OHS officer may enter and inspect any work site, including a private dwelling.</p>	<p>Include new sections on the powers of statutory Directors and OHS officers to clarify their responsibilities and powers.</p> <p>Update OHS officer powers to allow interviews of persons who are not present at the work site during an inspection, access to electronic records, and technical experts to accompany the OHS officer at a work site.</p> <p>Restrict OHS officer entry to work sites that are also private dwellings unless they have consent or a warrant.</p>	<p>Stating the roles and duties of Directors and officers improves clarity and enhances accountability.</p> <p>There should be limits on conducting inspections and investigations in private dwellings, consistent with those in other Canadian jurisdictions.</p>

Current requirement	Requirement on June 1, 2018	Explanation
Appeals process		
<p>There is no allowance for a Director review.</p> <p>Appeals are heard by the OHS Council.</p>	<p>Modify the appeal process. Allow certain types of officer orders and decisions to be reviewed by a Director of Inspection.</p> <p>Shift responsibility for OHS appeals to the Alberta Labour Relations Board.</p>	<p>The review of orders such as officer orders can be addressed more efficiently by a statutory Director. Adding this step should streamline the appeals process.</p> <p>Sending appeals to the Alberta Labour Relations Board allows more efficient use of resources and expertise for labour-related appeals.</p>
Duties of the Minister and government		
<p>The <i>OHS Act</i> does not describe the Minister's responsibilities.</p> <p>There is no requirement for regular reviews of OHS laws.</p>	<p>Include new provisions that describe the duties of the Minister to keep OHS legislation up to date, conduct consultations, and ensure OHS information and statistics are maintained.</p> <p>The <i>OHS Act</i> has to be reviewed every five years. A three-year plan for the review of any OHS regulations and the OHS code will be published every year. The Minister must consult with workers and employers, and can recommend changes to OHS legislation.</p> <p>Ensure OHS statistics are maintained and published.</p>	<p>Stating the roles and duties of government in the <i>OHS Act</i> improves clarity and enhances accountability.</p> <p>Regular reviews of OHS legislation help ensure that it stays up to date.</p>
Information collection and exchange		
<p>The <i>OHS Act</i> limits which parties may enter into information-sharing agreements with government for research and education.</p> <p>Only the Workers' Compensation Board shares injury information with Alberta Labour.</p> <p>While the <i>OHS Act</i> allows for the publication of a "register" with employer data, it is not specific as to the type of information and there are no parameters on when information is made available.</p>	<p>Expand abilities to enter into information-sharing agreements for research and educational programs.</p> <p>Allow for exchange of data with additional agencies and organizations.</p> <p>Require regular publication of OHS information on items such as WCB data, fatalities, orders issued, investigation reports, tickets issued to employers, and acceptances and approvals issued.</p>	<p>Sharing information supports research efforts and decision-making.</p> <p>Additional data will support prevention efforts.</p>

Contact Us

OHS Contact Centre

Throughout Alberta

- 1-866-415-8690

Edmonton & surrounding area

- 780-415-8690

Deaf or hearing impaired:

- 1-800-232-7215 (Alberta)
- 780-427-9999 (Edmonton)

PSI Online Reporting Service

alberta.ca/report-potentially-serious-incidents.aspx

Website

alberta.ca/occupational-health-safety.aspx

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