



Change highlights: the 2020 OHS Act

Information for work site parties

This bulletin gives an overview of what has changed and what hasn't in the 2020 update of the *Occupational Health and Safety Act (OHS Act)*. Table 1, at the end of this bulletin, gives a detailed comparison of these changes.

KEY INFORMATION

- Fundamental rights, protections and obligations remain in place but with a new focus on outcomes rather than process.
 - The 2020 update eliminates duplication and simplifies language, making OHS laws easier to understand.
 - New requirements come into effect in December 1, 2021.
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The purposes of the act

Section 2 of the *OHS Act* states its purposes. These have not changed. Workers still have the same rights and protections, including:

- The right to know about workplace hazards.
- The right to participate meaningfully in health and safety.
- The right to refuse dangerous work.
- The ability to work without being subject to disciplinary action for exercising rights or carrying out duties imposed by OHS legislation.

Work site party obligations

Work site party obligations – Part 1 of the act – reflect the principles of the internal responsibility system. The 2020 *OHS Act* streamlines these obligations and improves definitions, allowing for more clarity:

- Self-employed persons are included with employers.
- The term “contractor” is replaced by “contracting employer”.
- Information sharing requirements are included in work site party obligations.
- Redundancies – such as statements that work site parties must comply with OHS laws – are removed.

Where needed to support achieving outcomes, flexibility is also introduced into work site party obligations.

Prime contractors

Prime contractors are still required on multi-employer construction and oil and gas work sites or when ordered by an OHS statutory director (OHS director). This role has not changed. However, a prime contractor is now an option at any multi-employer work site, and sites with prime contractors are no longer required to have a joint health and safety committee (HSC). When there is a prime contractor, they must assign an individual responsible for coordinating health and safety between employers and workers. The individual performs the duties of an HSC such as:

- Addressing health and safety concerns of workers.
- Participating in the employer's hazard assessment.
- Making recommendations to the employer about the health and safety of workers.
- Reviewing the employer's work site inspection documentation.

Health and safety committees, representatives and programs

The 2020 *OHS Act* still requires HSCs, health and safety representatives (HS representatives), and health and safety programs. The thresholds for establishing or designating these haven't changed, but flexibility is introduced to the requirements, such as:

- The calculation of the number of workers for deciding when an employer requires an HSC or an HS representative is simplified. The 2020 act requires that regularly employed workers are counted toward thresholds.
- Specific requirements regarding HSCs and HS representatives are moved to the OHS Code.
- Health and safety programs do not have required elements. However, all programs must satisfy the definition: a system to “promote continuous improvement in occupational health and safety.”

HSCs are still required at multi-employer work sites with more than 20 regularly employed workers and no prime contractor. An HS representative is required for multi-employer work sites with 5 to 19 workers.

Refusing dangerous work

The fundamental right to refuse dangerous work is unchanged. The use of the new term “undue hazard” clarifies that work refusals are appropriate if there is a serious and immediate health and safety threat. Other changes streamline the work refusal process and clarify that, where possible, workers must ensure their work refusal does not endanger anyone else.

Disciplinary action

Workers are still protected from disciplinary action for complying with OHS laws. There is still a continued reverse onus on employers to show that disciplinary actions they took were for reasons other than compliance. However, the 2020 *OHS Act* ensures that all workers have one route for disciplinary action complaints:

- Unionized workers through their collective agreement processes.
- Other workers to OHS officers.

The 2020 act also specifies that complaints to OHS must be filed within 180 days of the disciplinary action and that OHS officers can refuse to investigate if they find the complaint “is without merit, or is frivolous, trivial, vexatious, filed with improper motives or otherwise an abuse of process.” Workers can request an OHS director review an officer’s refusal to investigate on these grounds.

Compliance and enforcement

Serious injuries, illnesses and incidents

Injuries, illnesses or incidents that cause a worker’s death or hospitalization, or are likely to require worker hospitalization, must still be reported as soon as possible. Key changes clarify that:

- Illnesses – as well as injuries and incidents – are reportable.
- If worker hospitalization is likely, prime contractors or employers must report to OHS without delay.

Radiation overexposure

Radiation overexposure is now included as a reportable incident under the 2020 *OHS Act*. Incidents of radiation overexposures must be reported to OHS by the prime contractor or employer.

Potentially serious incidents

The 2020 *OHS Act* clarifies what a potentially serious incident is and streamlines reporting requirements.

Reporting of potentially serious incidents remains compulsory. However, with the 2020 *OHS Act*, prime contractors or employers report to OHS once their investigation is complete.

Officer authorities

The 2020 *OHS Act* updates give officers discretion when issuing orders and how they confirm work site party compliance with orders.

Appeals

Appeals are streamlined in the 2020 *OHS Act* by removing the requirement for a preliminary OHS director review of compliance, stop work or stop use orders, or work refusal investigation decisions. Work site parties can now appeal these directly to the Alberta Labour Relations Board (ALRB).

Directors keep the authority to vary or revoke compliance, stop work and stop use orders, and administrative penalties.

Minister and staff

To improve efficiency, the 2020 act gives the Minister and OHS Directors more flexibility in several areas. These include:

- New authority for OHS directors to issue allowances to persons or groups to vary from provisions of the OHS Code under certain circumstances.
- New authority for the Director of Medical Services to maintain and update the list of notifiable diseases.
- The Minister can now get advice from committees or consultants as needed, rather than requiring a standing committee.
- Act and code reviews still occur regularly, but with more time allowed between reviews.

Radiation protection

The 2020 *OHS Act* brings Alberta’s radiation safety legislation – the *Radiation Protection Act* and its regulations – into OHS legislation without substantially changing radiation requirements.

TABLE 1: CHANGES TO THE OHS ACT (2020)

Current requirement	Requirement late 2021	Explanation
Definitions		
Construction, and oil and gas work sites are referenced but not defined in the act.	Construction, and oil and gas work sites are defined in the act.	Updated definitions add clarity.
Contractor is a defined work site party.	Contractor has been renamed to contracting employer as a defined work site party.	
Self-employed persons are a defined work site party.	Self-employed persons are included in the definition of an employer.	
Work site party obligations		
One set of requirements for employers, another for self-employed persons	Obligations of employers apply to self-employed persons with any necessary modifications.	Redundancies removed and obligations streamlined to improve clarity.
Information sharing requirements are a standalone part in the act.	Information sharing requirements are included in work site party obligations.	
Every work site party has an explicitly-stated duty to comply with legislation.	Redundant statements of duty to comply are removed.	Compliance with applicable laws is always required.
Multi-employer work sites		
Prime contractors are mandatory for multi-employer work sites in construction, and oil and gas. The legislation is silent on other industries.	Prime contractors are still mandatory for multi-employer work sites in construction and oil and gas. Multi-employer work sites in other industries can voluntarily designate a prime contractor.	New prime contractor provisions allow for more flexibility at multi-employer work sites. Stakeholders told government this flexibility is needed at complex work sites with shifting activities and transient work site parties.
Multi-employer work sites with work lasting 90 days or more, and 20 or more workers, must establish an HSC. An HS representative is required at multi-employer work sites with 5 to 19 workers.	HSCs and HS representatives are not required on multi-employer work sites with a prime contractor. On these sites, the prime contractor must designate a health and safety contact to ensure employer and worker cooperation and address matters that an HSC would otherwise be responsible for.	
The prime contractor must coordinate the HSC. If there is no prime contractor, all of the employers must do so.	Multi-employer sites with no prime contractor must still have an HSC if there are 20 or more regularly employed workers at the site or an HS representative if there are 5-19 regularly employed workers at the site.	
HSCs, HS representatives and health and safety programs		
HSCs and health and safety programs are required for employers with 20 or more workers, and HS representatives where there are 5 to 19 workers. The act sets out how the number of workers has to be calculated.	<p>The act keeps the numerical threshold requirements for HSCs, HS representatives and health and safety programs. The act says that the workers must be regularly employed. Calculation and length of work requirements are removed.</p> <p>Volunteers don't need to be counted when determining the number of regularly employed workers for HSCs and HS representatives. However they are included in the count of regularly employed workers for health and safety programs. Volunteers are workers with all the same rights and protections under OHS legislation, but they</p>	Stakeholders told government that the calculation requirements did not work with seasonal demands, work force disruptions, volunteers or short or irregular shifts. The new requirement is simpler and allows for more accuracy.

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Current requirement	Requirement late 2021	Explanation
<p>The act gives enabling provisions as well as specific requirements and rules for HSCs and HS representatives. There are some supplemental requirements in OHS Code.</p> <p>Employers with 20 or more workers must establish, in consultation with the HSC, a health and safety program. The act describes 10 elements that, at a minimum, must be included in a program. The act also allows for more required elements in the regulations.</p>	<p>aren't included in the count of regularly employed workers for the purposes of sections 13 and 14 of the act.</p> <p>The act keeps the enabling provisions for HSCs and HS representatives. Specific technical requirements will be consolidated in the OHS Code.</p> <p>Employers with 20 or more workers still must establish a health and safety program. No specific program elements are required.</p>	<p>Specific requirements and rules belong in the code, which is reviewed more often and easily than the <i>OHS Act</i>.</p> <p>Removing prescribed elements provides flexibility for employers and workers to tailor programs to their individual workplace.</p>
Right to refuse dangerous work		
<p>Workers have the right to refuse work if there is a dangerous condition at the work site or the work poses a danger to the worker or someone else. Dangerous condition and danger are not defined in the act.</p> <p>No protection for other workers or persons who may be endangered by a work refusal.</p> <p>The act outlines a series of steps in the work refusal process. These include involving the HSC or HS representative, if there is one, in the work refusal inspection.</p>	<p>Workers have the right to refuse work if there is an undue hazard at the work site or the work poses an undue hazard to the worker or someone else. Undue hazards are those which pose a serious and immediate health and safety threat.</p> <p>When exercising their right to refuse, workers must, as far as is reasonable, ensure their work refusal doesn't endanger anyone else.</p> <p>Process steps are streamlined. HSC or HS representative is now apprised of the work refusal but not required to actively participate in the work refusal inspection. (Their participation is still enabled through their legal duties, including making health and safety recommendations to employers.)</p>	<p>Undue hazard definition helps clarify when work refusals are appropriate. The fundamental right to refuse is not diluted.</p> <p>New requirement is consistent with the principles of the internal responsibility system.</p> <p>The work refusal process is easier to follow and supports effective engagement from all work site parties.</p>
Disciplinary action		
<p>No person can take discriminatory action against a worker for acting in compliance with OHS legislation or an OHS order.</p> <p>Workers can make a discriminatory action complaint to an OHS officer. Unionized workers can pursue their complaint through both their collective agreement process and OHS.</p> <p>No time limit on filing a complaint with OHS. No authority for an officer to dismiss frivolous, trivial or vexatious complaints.</p>	<p>No person can take disciplinary action against a worker for acting in compliance with OHS legislation or an OHS order.</p> <p>Workers who are part of a collective agreement must resolve disciplinary action complaints through their collective agreement process. Workers who are not in a collective agreement can make a complaint to an OHS officer.</p> <p>Complaints to an OHS officer must be filed within 180 days of the disciplinary action. Officers can refuse to investigate complaints that are without merit. Workers can appeal officer refusals to investigate to a Director.</p>	<p>Renaming 'discriminatory action complaints' to 'disciplinary action complaints' removes confusion with human rights language and laws.</p> <p>This change gives one avenue for complaints for every worker. OHS can focus finite resources on complaints from workers who do not have another option.</p> <p>The new provisions ensure complaints are investigated effectively and in a timely manner, while evidence is still readily available.</p>
Acceptances, approvals and allowances		
<p>Acceptances and approvals are enabled in the <i>OHS Act</i>.</p> <p>The act does not have requirements for allowances.</p>	<p>Request process is simplified.</p> <p>Allowances are added to the act.</p>	<p>Acceptance and approval requests requirements are simplified.</p> <p>Allowances give OHS directors flexibility to update legislative requirements if they lag behind advances in technology or</p>

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		processes, or because of exceptional circumstances, given that no person's health or safety is materially affected by the allowance.
Notifiable diseases		
The act requires that physicians or other health care professionals report notifiable diseases to the Director of Medical Services. The notifiable diseases list is in the OHS Regulation.	The notifiable diseases list is no longer part of the OHS Regulation.	The Director of Medical Services can update the list on an as-needed basis.
Reportable incidents		
Prime contractors or employers – if there is no prime contractor – must report serious injuries and incidents as soon as possible. The definition of these includes injuries or incidents that require hospitalization (admittance to hospital, not simply a visit to emergency).	Prime contractors or employers – if there is no prime contractor – must report serious injuries, illnesses and incidents as soon as possible. The definition of these includes injuries, illnesses and incidents that require or are likely to require a worker being hospitalized.	Changes clarify that if a worker is or is likely to be hospitalized as a result of their work, the prime contractor or employer must report to OHS as soon as possible.
Radiation safety is covered under its own legislation in Alberta. Radiation overexposure must be reported by the owner of the radiation equipment.	Radiation overexposure is a reportable incident. The prime contractor or employer – if there is no prime contractor – must report radiation overexposure to the OHS Contact Centre as soon as possible.	Radiation legislation is incorporated into the <i>OHS Act</i> . Changes will allow more efficient delivery, and ensure that general OHS and radiation remain aligned.
Prime contractors or employers – if there is no prime contractor – must report potentially serious incidents to OHS and file an investigation report. Potentially serious incidents are not defined in the legislation.	Reporting of potentially serious incidents remains compulsory. Prime contractors or employers – if there is no prime contractor – must still investigate and report potentially serious incidents. However the act now allows a one-step process where investigation reports are submitted once complete, with no initial reporting required. The act also clarifies the criteria that define potentially serious incidents: (a) the incident had a likelihood of causing a serious injury or illness, and (b) there is reasonable cause to believe that corrective action may be needed to prevent recurrence.	The new potentially serious incident requirements allow for more focused investigations and less burden for prime contractors and employers. Providing OHS with a copy of the potentially serious incident investigation report remains compulsory. Report information is for education and preventative purposes only and not for enforcement purposes except in cases where the report indicates a current and ongoing serious health and safety concern.
OHS officer authorities		
Officers must issue compliance, stop work or stop use orders.	Officers may issue compliance, stop work or stop use orders.	Changes increase clarity and give officers flexibility in addressing compliance issues and allows enforcement to fit the situation.
Work site parties who have been issued a compliance, stop work or stop use order must submit a report on compliance to the issuing officer.	Officers have discretion on how they confirm work site party compliance with orders.	
Appeals		
Work site parties must request a Director review of compliance, stop work or stop use orders, or work refusal investigation decisions, before they can appeal to the Alberta Labour Relations Board (ALRB).	Work site parties can appeal compliance, stop work or stop use orders, or work refusal investigation decisions directly to the ALRB.	The ALRB is the appeals body for labour legislation. This change allows work site parties direct access without a required extra step. Directors retain the authority to vary or revoke orders or administrative penalties.

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Advice to the Minister		
The legislation mandates an OHS Advisory Council to provide support to the Minister. The Minister can also form advisory committees (under the <i>Government Organization Act</i>) and retain consultants to provide advice (under the <i>OHS Act</i>).	The OHS Advisory Council is dissolved, effective on the passing date of the 2020 act (December 9, 2020). The Minister can still form advisory committees or retain consultants.	The Minister can get advice that is appropriate for specific OHS issues or questions, without having to go to a standing committee.
OHS legislation reviews		
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 may request a review of the <i>OHS Act</i> any time, with no more than 10 years between reviews. Code review plan must be published every three years.	Updated requirements allow for efficient regulation but still commit the government to keeping the act and code current.
<i>The Radiation Protection Act</i>		
Radiation safety in Alberta is covered under its own legislation. The <i>Radiation Protection Act</i> applies to persons who own, install, supply, operate or service a radiation facility, radiation equipment or radiation sources. The <i>Radiation Protection Act</i> gives general duty obligations, and covers registration and maintenance of radiation equipment and quality assurance programs for diagnostic X-ray equipment. Detailed technical requirements for radiation equipment and exposure limits are provided in the Radiation Protection Regulation under the <i>Radiation Protection Act</i> , and administrative requirements for the radiation program are in the Radiation Health Administration Regulation under the <i>Government Organization Act</i> .	The <i>Radiation Protection Act</i> and its regulations will be incorporated into the <i>OHS Act</i> and OHS Code. The incorporation will include administrative changes to remove duplication and update language to align with the <i>OHS Act</i> .	Alberta has an excellent radiation protection program and laws governing it will remain intact. Changes will allow more efficient delivery, and ensure that general OHS and radiation remain aligned.

Contact us

OHS Contact Centre

Anywhere in Alberta

- 1-866-415-8690

Edmonton and surrounding area

- 780-415-8690

Deaf or hearing impaired

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

Notify OHS of health and safety concerns

alberta.ca/file-complaint-online.aspx

Call the OHS Contact Centre if you have concerns that involve immediate danger to a person on a work site.

Report a workplace incident to OHS

alberta.ca/ohs-complaints-incidents.aspx

Website

alberta.ca/ohs

Get copies of the OHS Act, Regulation and Code

Alberta Queen's Printer

qp.gov.ab.ca

OHS

alberta.ca/ohs-act-regulation-code.aspx

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