

## Health and Safety

### Who carries out workplace inspections?

Worker committee members must select a worker member in their group to inspect the workplace [subsection 9(23)]. The Act requires that the selected member be a certified member if possible [subsection 9(24)]. Where a multi-workplace committee has been established by an order of the Minister of Labour, under subsection 9(3.1), the committee members may designate a worker who is not on the committee to perform inspections. Situations that may be a source of danger or hazard to workers must be reported to the committee [subsection 9(30)].

### How often must workplace inspections be carried out?

Regular inspections of the workplace by the designated worker member of the joint health and safety committee help to identify hazards and thereby prevent or mitigate workplace injuries. The workplace must be inspected at least once a month, unless a different schedule of inspections is ordered by a Ministry of Labour inspector or is prescribed in a regulation under the OHSA [subsection 9(26)]. Where it is not practical to inspect the workplace on a monthly basis (e.g., where the workplace is too large or where parts are shut down on a seasonal basis), the designated member is required to inspect the workplace at least once a year and ensure that at least part of the workplace is inspected each month [subsection 9(27)] in accordance with a schedule established by the committee [subsection 9(28)].

### After a source of danger or hazard is reported to the committee, what happens?

If a source of danger is reported to the committee by a designated worker who carried out a workplace inspection, the committee or members of the committee are required to consider the information within a reasonable period of time. The committee would then typically make written recommendations to the employer or constructor to address the identified hazard(s). The Act requires that the employer provide a written response within 21 days, to any **written recommendations** from the committee. If the employer agrees with the recommendations, the response must include a timetable for implementation. If the employer disagrees with a recommendation, the response must give the reasons for disagreement [subsections 9(20) and 9(21)].

Although OHSA does not stipulate that the committee is supposed to work on a consensus basis it is highly recommended. However, there will be situations where a consensus may be not reached. If the committee has failed to reach a consensus about making recommendations to the employer after trying to reach a consensus in good faith to do so, either co-chair of the committee has the power to make written recommendations to the constructor or the employer [subsection 9(19.1)].

### Do certified members have added responsibilities?

Because certified members receive special training in workplace health and safety, they are given additional powers under the Act. For example, certified employer and worker representatives can, under specified circumstances, collectively order the employer or constructor to stop work that is dangerous to a worker [subsection 45(4)].

## Employer Responsibilities

### What are the employer's responsibilities regarding joint health and safety committees?

Employers have a range of obligations in respect of joint health and safety committees. Examples of employer obligations relating to committees include:

- causing a JHSC to be established and maintained at a workplace where one is required [subsection 9(4)]
- selecting committee members who exercise managerial functions for the employer to sit on the joint health and safety committee [subsection 9(9)]
- assisting and cooperating with committee members in the carrying out of their functions [clause 25(2)(e)]
- providing the committee with information relating to hazards in the workplace and any work practices and standards in similar industries [clause 9(18)(d)]
- providing the committee with a copy of all orders or reports issued to the employer by a Ministry of Labour inspector [subsection 57(10)] informing the committee of any work related incidents involving injury, death or occupational illness [sections 51 and 52] (see [Section VII](#) of the Guide to the Occupational Health and Safety Act).
- consulting with the JHSC or health and safety representative on the development of health and safety programs and policies (including training programs), where prescribed, and,
- provide a joint health and safety committee member representing the workers with the opportunity to accompany a Ministry of Labour inspector on the physical inspection of the workplace [subsection 54(3)].

It is an offence for any person, including an employer, to knowingly hinder or interfere with, or to give false information to, the joint health and safety committee or to a committee member who is in the process of performing his or her duties under the Act. See also the section in this Guide entitled [Multi-workplace Joint Health and Safety Committees](#).

### Must an employer act on committee recommendations?

An employer who receives written recommendations from the committee must provide a written response to the committee within 21 calendar days [subsection 9(20)]. If the recommendations are accepted, a timetable for action must be outlined and provided to the committee. If an employer decides against acting on all or some of the committee's recommendations, reasons must be given in writing [subsection 9(21)].

## General Procedures

A worker must report any hazard or contravention of the Act to the employer or supervisor [clauses 28(1)(c) and 28(1)(d)]. As a best-practice it may also be advisable to alert the JHSC that the matter has been presented to the employer. If the matter is not resolved to the worker's satisfaction, a worker should then formally inform the committee. The committee has the power to make recommendations to the employer in respect of the identified hazard.

### **What if the committee cannot reach a consensus on a recommendation?**

If the committee has failed to reach a consensus about making recommendations after trying to reach a consensus in good faith, either co-chair of the committee has the power to make written recommendations to the constructor or the employer.

In these instances, written recommendations may include the following:

1. A summary of the position of the members of the committee who supported the recommendations.
2. A summary of the position of the members of the committee who did not support the recommendations.
3. Information about how the committee attempted to reach consensus.

### **What should the committee do in the event of a work refusal?**

A committee member, who represents workers, must be present during the employer or supervisor's investigation of a work refusal [subsection 43(4)]. This investigation is typically conducted by the supervisor.

If the issue is not resolved following the employer's investigation under subsection 43(4), the employer, a worker or other person on behalf of the employer or worker must notify a Ministry of Labour inspector [subsection 43(6)]. The inspector is required to investigate the work refusal in consultation with specified persons, including the committee member where applicable [subsection 43(7)].

See also the [Guide to the Occupational Health and Safety Act: Part V](#).