



Guide to the Occupational Health and Safety Act



This guide provides practical information about the *Occupational Health and Safety Act (OHS Act)*. A key part of a safe workplace is an understanding of the *OHS Act*. It is the responsibility of both employers and workers.

The guide helps to explain the *OHS Act*, but it does not replace it. **The *OHS Act* is the law in the province of Prince Edward Island, and it must be followed by all provincially regulated workplaces in the province.**

The guide is organized by subject matter and references to the applicable section of the *OHS Act*. For more information, refer to the *OHS Act* on the Workers Compensation Board (WCB) website at www.wcb.pe.ca

For information on implementing the *OHS Act* in your workplace, refer to the *Guide to Workplace Health and Safety*. The guide is also available on the WCB website.

Contents

Purpose and Administration of the <i>OHS Act</i>	2
OHS Officers	2
Orders and Reports	3
Stop Work Orders	3
Occupational Health and Safety Program	4
Occupational Health and Safety Policy	5
Joint Occupational Health and Safety Committee	5
Health and Safety Representative	5
Information Responsibilities	6
Refusal to Work	6
Duties of Employers, Workers, and Others	7
Duties of Employers	7
Duties of Constructors and Contractors	8
Duties of Suppliers	9
Duties of Workers	9
Duties of Self-employed People	9
Duties of Owners	10
Duties of Service Providers	10
Duties of Architects and Engineers	10
Instruction in the Principles of Health and Safety	10
Occupational Health and Safety Advisory Council	10
Toxic Substances	11
Medical Exam	11
Code of Practice	12
Reporting of Serious Workplace Injuries	12
Reporting of Explosions	13
Board of Inquiry	13
Confidentiality	13
Copies of Reports	13
Liability	14
Obstruction of OHS Officers	14
Convictions and Fines	14
Additional Penalties	14
Availability of the <i>OHS Act</i>	15
Regulations	15
Transitional Requirements	15
For More Information	15
Index	16

Purpose and Administration of the OHS Act

<i>OHS Act Reference</i>	See Section 2 and Section 4 of the <i>OHS Act</i> .
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The *OHS Act* and its *Regulations* set the minimum standards for occupational health and safety in the workplace and define the general safety principles for provincially regulated workplaces in Prince Edward Island.

The basis of the *OHS Act* is the Internal Responsibility System. This system means that everyone in the workplace – employers, supervisors, and workers – is responsible for health and safety.

The Occupational Health and Safety (OHS) division of the Workers Compensation Board (WCB) supports the Internal Responsibility System. The OHS team establishes and clarifies the responsibilities of each party and helps them maintain healthy and safe workplaces. They also intervene when parties are not carrying out their responsibilities as specified by the *OHS Act* and its *Regulations*.

OHS Officers

<i>OHS Act Reference</i>	See Section 7 and Section 8 of the <i>OHS Act</i> .
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OHS Officers inspect workplaces to make sure the health and safety standards set by the *OHS Act* and *Regulations* are being met. OHS Officers may enter any workplace at any reasonable time without notice, as long as they are entering because of the *OHS Act*. If a workplace is in a home, the OHS Officer may enter the part of the home that is used as a workplace with the consent of the owner, or, if necessary, with a warrant.

They may conduct investigations, request records, copy documents, and take photographs or samples. They may also ask an employer to provide a record of information, such as repairs, inspections, or training.

During an inspection, OHS Officers may question the employer or the workers. The employer or a Health and Safety Representative may be present during any inspections. A Joint Occupational Safety and Health (JOSH) Committee member representing the workers may also be present. If the workplace does not have a committee or representative, the OHS Officer may consult the workers about the occupational health and safety in their workplace.

If OHS Officers remove items from a workplace as part of an investigation, they must return them, if testing did not destroy them. If necessary, OHS Officers

may bring an expert with them. For example, an OHS officer may bring an air quality expert to inspect a problem with ventilation.

Orders and Reports

<i>OHS Act Reference</i>	See Section 7 and Section 8 of the <i>OHS Act</i> .
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OHS Officers may give verbal or written orders to correct any violations of the *OHS Act*. After inspecting a workplace, however, OHS Officers will leave a written inspection report.

OHS Officers will give orders if they determine that the workplace does not meet the standards of the *OHS Act*. They will provide a time frame within which the employer can correct the problem. Orders must be posted and a copy given to the JOSH Committee or Health and Safety Representative, if applicable. If the OHS Officer writes the order because of a complaint, the person who filed the complaint can also receive a copy.

An order includes the text of the relevant section of the *OHS Act* and the nature of the violation. The OHS Officer gives the employer a specific amount of time to fix the violation and comply with the order. OHS Officers have the authority to write orders under other legislative acts such as the *Smoke Free Places Act*.

Stop Work Orders

<i>OHS Act Reference</i>	See Sections 8, 9, 10, and 11 of the <i>OHS Act</i> .
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OHS Officers can issue a stop work order if they find a situation where workers are in immediate danger. The employer must stop the process, machine, activity, or access to the place until they correct the problem or the OHS Officer withdraws the order. If the danger can be isolated, the OHS Officer can order the employer to clear and barricade the particular operation, process, room, or building until the employer can remove the danger.

The employer must post a copy of the stop work order. Only the OHS Officer, or someone authorized by the OHS Officer, can remove it. The committee or representative also receives a copy of the stop work order. If the OHS Officer writes the order because of a complaint, the person who filed the complaint can also receive a copy.

If an OHS Officer isolates an area with a stop work order, the employer or designate can allow access only to remove the hazard. The person removing the hazard must have adequate protection.

If someone violates a stop work order, the WCB Director of Occupational Health and Safety can obtain a court injunction. Charges may result.

If an employer, its designate, or a worker does not agree with the stop work order, they can appeal to the WCB Director of OHS, who will hear the appeal as soon as possible. After hearing the appeal, the WCB Director of OHS may confirm the order, withdraw it, or make a new order based on the findings. If the employer, its designate, or a worker does not agree with that decision of the WCB Director of OHS, they can submit an appeal in writing within 30 days to the WCB, which will appoint an arbitrator to hold a hearing as soon as possible. The WCB Director of OHS and the person appealing can make a statement. The arbitrator's decision is final.

Occupational Health and Safety Program

<i>OHS Act Reference</i>	See Section 23 of the <i>OHS Act</i> .
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Employers with 20 or more regularly employed workers must have an OHS Program under the *OHS Act*. This requirement applies to the employer regardless of how many workplace locations the employer has. In the *OHS Act*, regularly employed workers include seasonal workers with a recurring period of employment of more than twelve weeks, for both part-time and full-time employment. Constructors or contractors do not count in the total number of workers.

Employers must develop the program and provide a copy to the JOSH Committee. The committee must monitor its effectiveness.

Programs must include these components:

- Safety committees or representatives
- Workplace inspections
- Incident and injury investigation procedures
- A hazard identification system
- Written safe work procedures
- Training and orientation
- Supervision
- A record keeping system
- An evaluation process

If a constructor on a project has 20 or more workers, the construction project will need a safety program. For example, a project could have four or five different trades. Each trade works under their own policies and programs that reflect the hazards of their work.

Occupational Health and Safety Policy

<i>OHS Act Reference</i>	See Section 24 of the <i>OHS Act</i> .
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All workplaces with five or more workers must have a written health and safety policy and review it annually. This applies whether the workers are all in one location or spread out over various locations in the province.

The policy must include the employer's commitment to injury prevention. It must also include the responsibilities of the employer, supervisors, and workers. The employer must write the policy in consultation with the workers.

Joint Occupational Health and Safety Committee

<i>OHS Act Reference</i>	See Section 25 of the <i>OHS Act</i> .
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All employers with 20 or more regularly employed workers at a workplace must have a Joint Occupational Health and Safety (JOSH) Committee. The committee monitors the OHS Program.

In some cases, a single employer with multiple workplaces will have several committees or a combination of committees and representatives to cover all workplaces. Construction projects expected to last more than three months must have a safety committee.

Workers choose the worker members of the committee. At least half of the workers on a committee must be workers who are not supervisors. The other half of the committee is selected by the employer. Committees must meet monthly and post the meeting minutes with contact information.

All committee work is done on paid time.

Health and Safety Representative

<i>OHS Act Reference</i>	See Section 26 of the <i>OHS Act</i> .
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Workplaces with between 5 and 19 regularly employed workers at a workplace must have a safety representative. The workers must choose a representative who is not a supervisor. The representative's name must be posted in the workplace.

Information Responsibilities

OHS Act Reference	See Section 27 of the <i>OHS Act</i> .
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The employer must respond to a written recommendation from the committee or representative within 30 days. The employer's reply must either accept the recommendations or give reasons for disagreeing with them.

The employer must post the names of the current committee members or representatives in the workplace where all workers can access it. The employer must post the health and safety policy, committee meeting minutes, and a phone number for reporting to an OHS Officer. The committee minutes must remain posted until the next committee meeting.

The employer must make occupational health and safety reports available to the committee or representative and any worker requesting a copy. This includes any information an OHS Officer believes is important for workers to know. Reports must be posted for a minimum of seven days. If posting is not practical, employers can provide workers with written health and safety information.

Refusal to Work

OHS Act Reference	See Sections 28-31 of the <i>OHS Act</i> .
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Workers have the right to refuse work if they believe that the work is dangerous to them or another worker's health or safety. If a worker believes that a task or situation is dangerous, they must report the concern to a supervisor immediately. The worker must also go to a safe place within the workplace. The employer may have the worker do other work.

The supervisor must investigate the work refusal immediately, with the worker present.

- If the supervisor finds the work unsafe, the employer must fix the problem before work can continue.
- If the supervisor believes the task is safe, and the worker still feels it is unsafe, the worker must report the concern to the committee or representative. The supervisor can ask another worker to do the job and must inform the other person about the work refusal reasons.

The committee or representative must investigate the situation promptly.

- If the committee or representative agrees with the refusal, they will recommend that the employer fix the problem.
- If they disagree, the committee or representative will advise the worker to return to work.

If the worker still feels unsafe and the problem is not resolved to the worker's satisfaction, they can call the Occupational Health and Safety Division of the WCB at 902-368-5680 or toll-free in Atlantic Canada at 1-800-237-5049. Outside of normal working hours, the worker can use the 24-hour emergency number at 902-628-7513.

The worker, supervisor, and committee or representative must follow this process before an OHS Officer can investigate the concern. The OHS Officer may issue an order to the employer to correct the situation or advise the worker to return to work.

The *OHS Act* protects a worker's right to refuse work from discriminatory action. The protection lasts up to the point where the OHS Officer advises the worker to return to work.

Duties of Employers, Workers, and Others

Duties of Employers

<i>OHS Act Reference</i>	See Section 12 of the <i>OHS Act</i> .
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Under the *OHS Act*, employers must make sure that workers are healthy and safe at the workplace. Employers must:

- Provide and maintain equipment, machines, and materials in a safe manner.
- Provide (and pay for) the training and supervision necessary to keep safe conditions in the workplace.
- Make sure that all workers know how to use safety devices and personal protective equipment appropriately.
- Make sure that all personal protective equipment fits properly.
- Make sure that workers, particularly supervisors, are familiar with workplace hazards and the procedures to minimize risks.
- Operate the business in a way that does not expose workers to health or safety hazards.
- Cooperate and consult with the JOSH Committee or Health and Safety Representative, if applicable.

Duties of Constructors and Contractors

<i>OHS Act Reference</i>	See Section 13 and Section 14 of the <i>OHS Act</i> .
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Constructors are persons who contract to do work on a project for an owner or who undertake work on a project as an owner. Constructors are often commonly referred to as “general contractors.”

Contractors are those who are contracted for work to be performed at a workplace. Constructor and contractor duties are described below. Where constructors or contractors are also employers, self-employed persons, or owners, those particular duties also apply.

When working on a project, constructors must ensure they are taking all reasonable precautions to keep people safe at the project site. This includes co-ordinating activities of all the contractors, employers, and self-employed persons and communicating any needed information to all persons on the project to ensure their safety. Constructors are responsible for monitoring activities of everyone on the project sufficiently to ensure that everyone is complying with the *OHS Act* and its Regulations. Constructors must also know when to establish a JOSH committee (or safety representative) and facilitate the communication between the JOSH committee (or safety representative) and everyone on site for their safety. Projects that last 3 months or more must have a JOSH committee. It is recommended that the committee be represented as much as possible by all employers, contractors and self-employed persons on the project.

Contractors also must ensure they are taking all reasonable steps to keep people safe at the workplace in which they are contracted to perform work. Contractors need to receive information about the potential hazards and risks at the workplace from the person or organization who is hiring the contractor. For example, a contractor that is hired to enter a building to provide cleaning services must be informed by the owner of the building (or the employer within the building) about any dangerous chemicals or other physical or biological hazards that they may encounter. If this information is not provided to the contractor, the contractor must seek it out from the person or organization/employer hiring them. The contractor must ensure that its activities are co-ordinated with those of everyone at the workplace and that the necessary communication takes place with everyone at the workplace to ensure their safety. Contractors are responsible for monitoring the activities of everyone at the workplace sufficiently to ensure that everyone is complying with the *OHS Act* and its Regulations.

Duties of Suppliers

OHS Act Reference	See Section 15 of the <i>OHS Act</i> .
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Suppliers must make sure that anything that they sell or lease is in safe working condition and complies with the *OHS Act*.

If the leasing agreement covers maintenance, the supplier must maintain the equipment in safe working condition. They must also arrange for regular and proper inspection. For example, a business renting scaffolding must make sure that the parts are in good condition. They must make sure all safety devices are also in good working condition when rented or used, depending on the lease agreement.

Suppliers of hazardous products must meet federal and provincial regulations for labeling. Workplace labels must be current, visible, and must meet Workplace Hazardous Materials Information System (WHMIS) Regulations.

Duties of Workers

OHS Act Reference	See Section 16 of the <i>OHS Act</i> .
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Workers also share the responsibility for health and safety in the workplace. They must take precautions to prevent injuries to themselves or co-workers. They must wear and use all protective equipment properly.

Workers must comply with the *OHS Act* and cooperate with safety officials, the employer, other workers, and the committee or representative on matters that affect the worker's health and safety.

Workers must also report unsafe conditions or equipment to their supervisor. If the employer cannot resolve the problem or concern, the worker should report it to the committee or representative, if there is one. If there is not a committee or representative, and the employer does not take action, the worker can report the concern to an OHS Officer.

Duties of Self-employed People

OHS Act Reference	See Section 17 of the <i>OHS Act</i> .
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Self-employed people have the same duty to take precautions, cooperate with safety efforts, and comply with the *OHS Act*.

Duties of Owners

OHS Act Reference	See Section 18 of the <i>OHS Act</i> .
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Owners of buildings and land must maintain the property that is used as a workplace. They must provide any information required to make sure that workers are not exposed to a hazard. For example, a mall owner is responsible for making sure that the ventilation is adequate, for clearing the entrances of ice, and for providing information on any hazardous chemicals stored on the premises.

Duties of Service Providers

OHS Act Reference	See Section 19 of the <i>OHS Act</i> .
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Anyone that provides health and safety services is accountable for the safety and accuracy of that service. They must make sure that the people using the information understand it.

Duties of Architects and Engineers

OHS Act Reference	See Section 20 of the <i>OHS Act</i> .
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Architects and engineers must comply with their own legislation as well as the *OHS Act* and *Regulations*. They must also identify provisions for safety in and around the places where they are providing their services.

Instruction in the Principles of Health and Safety

OHS Act Reference	See Section 21 of the <i>OHS Act</i> .
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The *OHS Act* requires private training schools and Holland College to offer instruction in the basic principles of occupational health and safety. This instruction must be available for each course or training program.

Occupational Health and Safety Advisory Council

OHS Act Reference	See Section 22 of the <i>OHS Act</i> .
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The Occupational Health and Safety Advisory Council is a group of nine people who advise the WCB on the administration of the *OHS Act*. They also advise on the state of workplace safety in the province, review and recommend any changes to the regulations, advise on any exclusions from the *OHS Act*, and discuss any other relevant matters.

The Minister appoints the council. Members of the council are knowledgeable and experienced representatives. The council is made up of three workers, three employers, one representative of the general public, the WCB Director of OHS , and the WCB Chair (or a designate). The Council can appoint subcommittees that may include non-committee members.

Toxic Substances

<i>OHS Act Reference</i>	See Section 32 of the <i>OHS Act</i> .
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Employers must create a list of all controlled chemicals and biological or physical agents, used, handled, produced, or otherwise present in the workplace. The list must be kept current and be available to everyone in the workplace.

Employers must also have information about the safe use and handling of these substances. The information must be current and available to the JOSH Committee and an OHS Officer on request. The information must include the following items:

- The ingredients and their common names
- The composition and the properties
- The toxicological effects
- The effects of exposure from contact, inhalation, or ingestion
- The protective measures required
- Emergency measures required
- Proper procedures for use, storage, transport, and disposal

Medical Exam

<i>OHS Act Reference</i>	See Section 33 of the <i>OHS Act</i> .
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The WCB Director of OHS may arrange, with the consent of the worker, a medical examination to determine if the worker is suffering from an occupational disease. The employer may not change the employment status of the worker as a result of the exam. The employer must pay the worker if the exam takes place during working hours. The report must be made available to the WCB Director of OHS upon request.

Code of Practice

<i>OHS Act Reference</i>	See Section 34 of the <i>OHS Act</i> .
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A code of practice is a practical guide that specifies general safety principles for workplaces within that industry.

If a hazard or workplace injury occurs, the WCB Director of OHS may request that the industry develop a code of practice. When a code of practice is created at the request of the WCB Director of OHS, it must be published in the Royal Gazette. The Royal Gazette is published regularly and contains notification of any legislative changes and issues of law.

The code of practice is not a law. However, in cases where a breach of the *OHS Act* results in prosecution, the code may illustrate correct procedure.

Reporting of Serious Workplace Injuries

<i>OHS Act Reference</i>	See Section 36 of the <i>OHS Act</i> .
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Employers must report all serious workplace accidents to the WCB Director of OHS within 24 hours. This can be done by calling the OHS 24-hour emergency number at 902-628-7513 or giving written notice to the WCB Director of OHS. If the workplace has a JOSH Committee, it must also be notified.

A serious workplace injury is an accident at work that:

- Is or may be fatal
- Results in a loss of a limb
- Produces unconsciousness
- Results in a substantial loss of blood
- Involves a fracture
- Involves the amputation of a leg, arm, hand, or foot
- Consists of burns to a large portion of the body
- Causes the loss of sight in an eye

In the case of a serious injury, it is an offence to disturb the scene of the incident before the OHS Officer arrives, except to attend to an injured worker or to prevent further injury or damage.

Employers must also notify the committee or representative, if the workplace has one.

Reporting of Explosions

<i>OHS Act Reference</i>	See Section 37 of the <i>OHS Act</i> .
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Employers must report all accidental explosions, regardless of injuries, to the WCB Director of OHS in writing.

Board of Inquiry

<i>OHS Act Reference</i>	See Section 38 of the <i>OHS Act</i> .
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When it is in the best interest of the public, the WCB may appoint a Board of Inquiry to look into the health and safety of workers at a workplace, by a particular employer or group of employers, or an industry. The Board of Inquiry may also investigate the circumstances around or the causes of workplace accidents.

The Board of Inquiry may consist of one or more persons. Anyone appointed to a Board of Inquiry has the powers of a commissioner appointed under the *Public Inquiries Act*. The Board may include corrective recommendations for the WCB in its report.

Confidentiality

<i>OHS Act Reference</i>	See Section 39 of the <i>OHS Act</i> .
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OHS Officers and anyone assisting them in a workplace inquiry must keep the information confidential.

Copies of Reports

<i>OHS Act Reference</i>	See Section 40 of the <i>OHS Act</i> .
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Anyone who is purchasing a business may request copies of the workplace's occupational health and safety reports and orders. The purchaser must submit a written request to the owner and may need to pay a fee to receive the reports.

Liability

OHS Act Reference	See Section 41 of the <i>OHS Act</i> .
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The *OHS Act* protects the WCB Director of OHS, OHS Officers, and anyone assigned to carry out a function under the *OHS Act*, from legal action in their performance.

Obstruction of OHS Officers

OHS Act Reference	See Section 42 of the <i>OHS Act</i> .
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It is illegal to interfere with, obstruct, or attempt to hinder OHS Officers from performing their duties. It is also illegal to give false information knowingly to a committee, representative, or officer, or to interfere with monitoring equipment.

Convictions and Fines

OHS Act Reference	See Section 43 of the <i>OHS Act</i> .
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Anyone who does not comply with the *OHS Act* or an order given by an OHS Officer is guilty of an offence. If convicted, they risk a fine of up to \$250,000 or a jail term not exceeding one month, or both. Each day the offence continues may result in an additional \$5,000 fine.

Additional Penalties

OHS Act Reference	See Section 44 of the <i>OHS Act</i> .
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In some cases, the court may order that the offender:

- Publish the facts relating to the offence. The WCB Director of OHS may also publish the facts.
- Pay the WCB an amount for public education to help to prevent the accident in the future. The court considers this a debt owed to the WCB, and the Supreme Court may recover the cost, if necessary.
- Provide the WCB Director of OHS with information around the activities to help educate workers and prevent another accident.
- Perform community service.
- Provide security for payment of the above orders.
- Impose any other conditions that the court considers appropriate.

The total amount payable will not exceed the maximum amounts payable under Section 43 of the *OHS Act*.

Availability of the OHS Act

OHS Act Reference	See Section 45 of the <i>OHS Act</i> .
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Every owner, constructor, or employer must keep a copy of the *OHS Act* in a prominent place and post all notices and reports as required by the *OHS Act*.

Regulations

OHS Act Reference	See Section 46 of the <i>OHS Act</i> .
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The WCB may make regulations with approval of the Lieutenant Governor in Council. Regulations set a minimum standard of safety for specific workplaces and work processes, such as confined spaces.

Transitional Requirements

OHS Act Reference	See Section 47 of the <i>OHS Act</i> .
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Transitional requirements make sure that any appointments, orders, policies, or decisions made under the previous *OHS Act* still apply under the new *OHS Act*.

For More Information

For more information, contact us:

- **Online:** www.wcb.pe.ca
- **In person:** 14 Weymouth Street, Charlottetown
- **By mail:** PO Box 757, Charlottetown, PE, C1A 7L7
- **By phone:** 902-368-5680 or
toll-free in Atlantic Canada at 1-800-237-5049
24-hour emergency number: 902-628-7513
- **By fax:** 902-368-5696

Index

Section of the <i>OHS Act</i>	Topics	Page
2, 4	Purpose and Administration of the <i>OHS Act</i>	2
7, 8	OHS Officers	2
	Orders and Reports	3
8, 9, 10, 11	Stop Work Orders	3
12	Duties of Employers	7
13, 14	Duties of Constructors and Contractors	8
15	Duties of Suppliers	9
16	Duties of Workers	9
17	Duties of Self-employed People	9
18	Duties of Owners	10
19	Duties of Service Providers	10
20	Duties of Architects and Engineers	10
21	Instruction in the Principles of Health and Safety	10
22	Occupational Health and Safety Advisory Council	10
23	Occupational Health and Safety Program	4
24	Occupational Health and Safety Policy	5
25	Joint Occupational Health and Safety Committee	5
26	Health and Safety Representative	5
27	Information Responsibilities	6
28, 29, 30, 31	Refusal to Work	6
32	Toxic substances	11
33	Medical Exam	11
34	Code of Practice	12
36	Reporting of Serious Workplace Injuries	12
37	Reporting of Explosions	13
38	Board of Inquiry	13
39	Confidentiality	13
40	Copies of Reports	13
41	Liability	14
42	Obstruction of OHS Officers	14
43	Convictions and Fines	14
44	Additional penalties	14
45	Availability of the <i>OHS Act</i>	15
46	Regulations	15
47	Transitional requirements	15



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