



Canada Labour Code Part II

Persons Granted Access

September 2023

Persons Granted Access

- The Granting of Access (GOA) is a legal Duty
- It's aimed at persons other than your employees
- The Canada Labour Code, Part II (CLC Part II) ensures that a legal obligation of safety cannot be contracted out



Defining a Workplace

According to the Code, work place means any place where an employee is engaged in work for the employee's employer.

Examples:

- Per (*Attorney General*) v. *P.S.A.C*, [2000 CanLII 16713](#) (FC)
- [R v. Halifax Port Authority](#)



Control of a Workplace

- All of the employer responsibilities set out in section 124 of the Code, and most in section 125, require employers to provide a safe workplace for employees, in various ways.
- Paragraphs 125(1)(l), (w), and (z.14) specifically require the employer to protect persons to whom they have granted access to the workplace.
- In addition paragraph 125(1)(y) of the Code requires employers to ensure that persons granted access to the work place do not endanger the health and safety of employees.
- A “person granted access” is not defined in the Canada Labour Code, Part II (Code) or the Regulations.

Example:

[Per Rogers Communication Inc.](#)



Persons Granted Access - Employer

- **Persons Granted Access is an employer responsibility**
- *Here the **employer** means the employer to which the workplace is controlled*
- *Employee means the employee of the employer who grants access*



Persons Granted Access #1

- **Specific duties of Employer**
- **Section 125(1)(I) CLC**
 - *(I) provide every person granted access to the work place by the employer with prescribed safety materials, equipment, devices and clothing;*



Persons Granted Access #1

What does this mean?

(1) provide every person granted access to the work place by the employer with prescribed safety materials, equipment, devices and clothing;

- *Employers assess the workplace for hazards that affect employees and then develop control measures. These control measures must be provided to persons who are granted access as well*
- *Example; your assessments identified a need for high visibility apparel for apron areas. Then you ensure they are provided.*



Persons Granted Access #2

- **Specific duties of Employer**
- **Section 125(1)(w) CLC**
 - *(w) ensure that every person granted access to the work place by the employer is familiar with and uses in the prescribed circumstances and manner all prescribed safety materials, equipment, devices and clothing;*



Persons Granted Access #2

What does this mean?

(w) ensure that every person granted access to the work place by the employer is familiar with and uses in the prescribed circumstances and manner all prescribed safety materials, equipment, devices and clothing;

- The employer ensures the specific safety materials, equipment, devices and clothing are understood and are used properly
- Example: area identified with high noise levels, hearing protection provided. Employer ensures the user understands proper use and also that its worn.



Persons Granted Access #3

- **Specific duties of Employer**
- **Section 125(1)(y) CLC**
 - *(y) ensure that the activities of every person granted access to the work place do not endanger the health and safety of employees;*



Persons Granted Access #3

What does this mean?

(y) ensure that the activities of every person granted access to the work place do not endanger the health and safety of employees;

- Here the Code is requiring that PGA do not carry out activities that may adversely affect the H&S of employees
- Ask the questions... "What are you doing? And how are you doing it?"
- Contractor doing renovations, workplace has asbestos in joint compound, proper procedures ensure safety for all
- Equipment that is brought to your site is used and maintained as per the manufacturers recommendations



Persons Granted Access #4

- **Specific duties of Employer**
- **Section 125(1)(z.14)CLC**
 - *(z.14) take all reasonable care to ensure that all of the persons granted access to the work place, other than the employer's employees, are informed of every known or foreseeable health or safety hazard to which they are likely to be exposed in the work place;*



Persons Granted Access #4

What does this mean?

(z.14) take all reasonable care to ensure that all of the persons granted access to the work place, other than the employer's employees, are informed of every known or foreseeable health or safety hazard to which they are likely to be exposed in the work place;

- *The employer has to inform the PGA of the identified hazards.*
- *Look at the assessment you as the employer have completed and apply to PGA where they may be exposed*
- *The contractor cutting holes in walls must be informed of the asbestos in the joint compound....*
- *Person required to enter CS, must show assessment by qualified person as per 10.4 of COHS Regulations.*



Granting of Access

- In simple terms GOA is simply sharing information, asking questions and ensuring the communication of hazards/controls
- Similar to sharing information with your employees
- Start by looking at who you are granting access too
- Determine what hazards you have that may affect persons granted access (where to start)
 - Assessments, hazard id's, reports, etc.
- Ask how they will be achieving their task
- Share the controls identified



Reasonably Practicable/Possible

- The technical aspect - is it physically possible to comply, and would compliance introduce other hazards or areas of non-compliance.
- The economical aspect - would the cost to comply significantly outweigh the benefits.
- Points to consider:
 - how severe is the hazard, and what is the likelihood (risk) of an employee being exposed to the hazard.
 - would compliance reduce the hazard or risk enough to make a noticeable improvement; and,
 - how long would the improvements remain in effect.



Exercising Due Diligence

Example:

[2012 OHSTC 27 \(CanLII\) | Nutreco Canada Inc. \(Meunerie Shur-Gain Yamachiche\) | CanLII](#)



Persons Granted Access

- Arrange policies or contractor agreements to cover some points of Persons Granted Access
- Ask how they are achieving their goal
- Example
 - Ask electrician if they will de-energize
 - Ask roofer how they protect themselves from a fall
 - Ask confirmation from tenants that ground rules were reviewed with staff
 - Ask for confirmation that MHE is properly maintained
 - Ask the refueller if they bond or ground
 - Ask for help if you need help



Persons Granted Access

Questions

