



Canada Labour **Code Part II** **Overview** **and** **Reporting** **Requirements**

Health & Safety

Revised January, 2022

Overview

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Purpose of Presentation

- To provide a general overview of Part II of the *Canada Labour Code (Code)*
- To provide an overview of reporting requirements to the Labour Program
- Note: The employer also has record keeping requirements which are not covered in this presentation.



Federal Jurisdiction

- Part II of the *Code* is the law that establishes the minimum workplace health and safety requirements for employers and employees that fall under federal jurisdiction.
- Approximately 10% of employees in Canada are covered by the *Code*.



Federal Jurisdiction

The *Code* applies to the following industries:

- Banks
- Railways, highway and air transportation
- Telecommunications
- Certain ferries, tunnels, bridges, canals
- Radio and television broadcasting
- Shipping and receiving services
- Grain elevators, feed warehouses, flour mills and seed cleaning operations
- The Federal Public Service, Crown Corporations



Purpose of the *Code*

The purpose of the *Code* :

"is to prevent accidents, occurrences of harassment and violence and physical or psychological injuries and illnesses arising out of, linked with or occurring in the course of employment to which this Part applies."

(s. 122.1)





On an average day in Canada three workers will die and hundreds more will be injured. The *Code* places minimum standards on employers and employees, the purpose of which is to ensure that these accidents are prevented.



Basic Rights

- Right to Know
- Right to Participate
- Right to Refuse Dangerous Work



Duties of Employers

- Every employer shall ensure that the health and safety at work of every person employed by the employer is protected. (s.124)
- Employers have further specific duties in regard to each work place they control and every work activity carried out by an employee. (s. 125)
- Education, training, accident prevention and investigation etc.



Duties of Employees

- Employees have a responsibility to take all reasonable and necessary precautions to ensure their health and safety and that of anyone else who may be affected by their work or activities. (s.126)
- Employees must report hazardous conditions to their employers.
- Employees must report any and all accidents to their employers.



Work Place Health & Safety Committees and Representatives

- All employers that employ 20 or more employees, must establish a work place health and safety committee (s. 135)
- All employers that employ under 20 workers, must appoint a health and safety representative (s. 136)
- Employees in the work place choose the employee committee members or the employee representative, or
- If those employees are represented by a trade union, the trade union shall select the person to be appointed, in consultation with any employees who are not so represented (s. 135.1 and 136)



Work Place Health & Safety Committees and Representatives

- If the employees and/or trade union fails to select employee representatives for the work place health and safety committee or health and safety representative, the employer shall perform the functions of the committee or health and safety representative until persons are selected and appointed. (s. 135.1 and 136)



Policy Health & Safety Committees

For the purposes of addressing health and safety matters that apply to the work, undertaking or business of an employer, every employer who normally employs directly three hundred or more employees shall establish a policy committee.

(s.134.1(1))



Internal Complaint Resolution Process

- Found under section 127.1 of the *Code*
- If an employee believes there is a contravention of the *Code* or that an accident, injury, or illness may take place, that employee should make a complaint to their employer
- However, in the case of a complaint relating to an occurrence of harassment and violence, the employee may make the complaint to the employee's supervisor or to the person designated in the employer's work place harassment and violence prevention policy.
- The ICRP must be completed in its entirety before ESDC – Labour program can receive a complaint for review and possible investigation



Right to Refuse Dangerous Work

While at work, an employee may refuse to work where the employee has reasonable cause to believe that the work (s.128(1)):

- Is a danger to the employee or another employee
- A condition exists that constitutes a danger to the employee
- The performance of an activity is a danger to the employee or another employee



Definition of Danger

Danger means any hazard, condition or activity that could reasonably be expected to be an imminent or serious threat to the life or health of a person exposed to it before the hazard or condition can be corrected or the activity altered (s. 122(1))



Refusal to Work Employer Reporting Obligation

- It is very important that the employer, the employee, and the health and safety committee or representative follow the required procedures outlined in Section 128 of the *Code* with regard to a refusal to work
- ESDC – Labour Program will only investigate when the internal process has been completed and the employee continues to refuse to work (s. 128(16))



Refusal to Work Employer Reporting Obligation

- The employee is entitled to continue to refuse to work
 - If they disagree with the employer's initial investigation and written report (s.128(9))
 - If they disagree with the employer's decision after the committee or representative's investigation and written report. (s. 128(15))
- If an employee continues to refuse to work after the employer's decision after the committee/representative investigation and report is complete (internal process is completed), the employer **MUST** report the continued refusal to the Head of Compliance and Enforcement immediately for further investigation. (s.128(16))
- The employer **MUST** provide the Head of Compliance and Enforcement with copies of the employer and committee investigation reports (s.128(16))



Canada Occupational Health & Safety Regulations (*COHSR*)

- Identifies, in much greater detail, the specific requirements in order to ensure a healthy and safe work place.
- There are XIX Parts under the *COHSR* covering many different issues related to health and safety.
- Part XX, “*Violence Prevention in the Workplace*” of the *COHSR* was repealed and,
- On January 1, 2021, the ***Work Place Harassment and Violence Prevention Regulations*** came into force.



Part XV – Hazardous Occurrence Investigation, Recording and Reporting

A hazardous occurrence (HO) is an accident, occupational disease or other occurrence arising in the course of, or in connection with, the employees work that has caused or is likely to cause, injury to the employee or any other person.

The primary purpose of conducting an HO investigation is to learn from it and prevent a recurrence of the incident.





15.3 If an employee becomes aware of an accident or other occurrence arising in the course of or in connection with the employee's work that has caused or is likely to cause injury to that employee or to any other person, the employee shall, without delay, report the accident or other occurrence to the employer.



Types of Hazardous Occurrences

- Under *COHSR XV* there are several different types of hazardous occurrences (HO) and each requires the employer to appoint a qualified person to conduct an investigation, notify the health and safety committee or representative and take measures to prevent recurrence.



Reporting Requirements to Labour Program for Hazardous Occurrences

The employer must report to the Head of Compliance and Enforcement by telephone, or fax **as soon as possible but within 24 hours** after becoming aware of an occurrence that resulted in (COHSR s.15.5):

- death of an employee (even if it appears to be from natural causes)
- permanent disabling injury of an employee, or temporary disabling injury of two or more employees from the same occurrence
- permanent impairment of a body function of an employee;
- an explosion
- damage to a boiler or pressure vessel that results in fire or rupture of the boiler or pressure vessel
- damage to an elevating device that renders it unusable, or a free fall of an elevating device



Reporting Hazardous Occurrences (continued)

The employer shall make a report in writing, without delay, using form Schedule I – Hazardous Occurrence Investigation Report (HOIR) LAB1070 when there is a (COHSR s.15.8(1)):

- a disabling injury to an employee
- an electric shock, toxic atmosphere or oxygen deficient atmosphere that caused an employee to lose consciousness
- the implementation of rescue, revival or other similar emergency procedures
- a fire or an explosion.

This form must be provided to (COHSR s.15.8(2)):

- the work place committee or the health and safety representative
- **within 14 days** after the hazardous occurrence, to the Head of Compliance and Enforcement.



Reporting Hazardous Occurrences (continued)

The employer must make a record report in writing within 72 hours:

- Damage to a boiler or pressure vessel that results in fire or rupture of the boiler or pressure vessel.
- Damage to an elevating device that renders it unusable, or a free fall of an elevating device.
- The record must include the causes of the occurrence and the corrective measures taken or the reason for not taking correctives measures. The employer must immediately send a copy of this record to the work place health and safety committee or the health and safety representative.



What is a disabling injury?

A disabling injury means an employment injury or an occupational disease that (COHSR s. 15.1):

- prevents an employee from reporting for work or from effectively performing all the duties connected with the employee's regular work on any day **subsequent to the day** on which the injury or disease occurred, whether or not that subsequent day is a working day for that employee
- results in the loss by an employee of a body member or part thereof or in the complete loss of the usefulness of a body member or part thereof
- results in the permanent impairment of a body function of an employee



How to Submit an HOIR

The Labour Program has created general delivery mailboxes by province/territory which you can use to submit your HOIRs. Email addresses are available in the link below:

<https://www.canada.ca/en/employment-social-development/services/labour-contact.html>

Please be sure to use these email addresses only for HOIR submission.



Employer Annual Hazardous Occurrence Report (EAHOR) – LAB1009

No later than March 1st of every year, the employer is required to submit the Employer Annual Hazardous Occurrence Report to the Minister by way of the Labour Program (COHSR s. 15.10).

This report should be submitted electronically using the Data Gateway.



Motor Vehicle Accidents on Public Roads

Employers must declare:

- If a motor vehicle accident involves (COHSR s. 15.9)
 - a disabling injury to an employee;
 - an electric shock, toxic atmosphere or oxygen deficient atmosphere that caused an employee to lose consciousness;
 - the implementation of rescue, revival or other similar emergency procedures; or
 - a fire or an explosion and,
- If the police investigated the accident, both the employer's report and the police report must be submitted to the Minister and a copy provided to the workplace committee no matter where the accident took place (US or Canada)



Policy Committees, Work Place Committees and Health & Safety Representative Regulations

There are also requirements to report the functions/duties of the work place health and safety committee to the ESDC – Labour Program. These requirements are found in the above entitled regulation.



Work Place Committee Report (WPCR) – LAB1058

- The selected employer chairperson of the committee must provide to the Head of Compliance and Enforcement, no later than March 1st of each year, the WPCR that reports on the committee's activities that took place in the preceding calendar year (Committee Regulations s. 9(1))
- The WPCR must be posted in the work place for a minimum of 2 months (Committee Regulations s.9(3))



Work Place Harassment and Violence Prevention Regulations

- Bill C-65 received Royal Assent in October 2018, which introduced amendments to the *Code* to strengthen the existing framework for harassment and violence prevention.
- *Code* amendments came into force January 1, 2021 along with the new *Work Place Harassment and Violence Prevention Regulations*



Work Place Harassment and Violence Prevention Regulations

The above mentioned *Regulation* include provisions to prevent harassment and violence through:

- a comprehensive prevention policy
- training
- a resolution process that provides multiple options for seeking resolution, and
- improved data collection



Employer's Annual Harassment and Violence Occurrence Report – LAB1206

- On or before March 1st of each year, the employer must provide the Head of Compliance and Enforcement with an Employer's Annual Harassment and Violence Occurrence Report (EAHVOR) (s. 36)



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The Labour Program is working to determine the most effective ways to connect with stakeholders and partners.

- Social media, Twitter, LinkedIn, Facebook
- Publish prosecutions online
- Linking information on the Canada.ca website (Health and Safety)

1-800-641-4049 – Labour Toll Free Line



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Questions?

