



Legislated Requirements for Workplaces are Changing



WC & OHS Act amendments

Legislative amendments to NB's *Workers' Compensation (WC) Act* and *Occupational Health and Safety (OHS) Act*

- **Will affect all NB workplaces.**
- **Received royal assent in the legislature June 21, 2013.**
- **Changes come into force June 1, 2014.**

Introduction

Why are changes being made?

- **Stakeholders have historically requested greater clarity in H&S legislation related to what constitutes a H&S policy and for incident reporting.**
- **Other amendments introduced are based on research and best practices.**
- **The board of directors and government agreed.**

Introduction

Legislation change process

- **WorkSafeNB has a policy for legislation changes.**
- **A request for legislation or regulation change is normally initiated by stakeholders, government, courts, staff, etc.**
- **WorkSafeNB's board of directors considers the request and approves or denies.**
- **If approved, staff set up a technical committee of specialists to review the issues and make recommendations. The board approves appointments to the technical committee.**

Introduction

Legislation change process

- **Technical committee is made up of stakeholders representing workers and employers (voting members). WorkSafeNB staff (non-voting) chair the committee and act as technical and legal advisors.**
- **Throughout the process, WorkSafeNB co-ordinates an ‘external consultation’ with various stakeholder and workplace groups and, if required, with groups not represented on the technical committee.**
- **When the technical committee completes their process, any recommendations are taken back to the board of directors.**


Introduction

Legislation change process

- **The board of directors can approve, deny or modify the proposed recommendations.**
- **Recommendations go to Dept. of Justice for legal drafting. This process can take many months.**
- **Final draft of changes are reviewed by WorkSafeNB technical and legal staff.**
- **Proposed amendments then go to Cabinet for approval. Amendments become law when passed in the Legislative Assembly.**

Consultation for these changes

- **12 meetings held over three years.**
- **WorkSafeNB staff provided technical assistance to the committee:**
 - **Research on various questions**
 - **Jurisdictional scans**
 - **Legal staff advice on legal issues**



WC Act

Chapter 14

www.worksafenb.ca

www.gnb.ca/0062/acts/BBA-2013/Chap-14.pdf

WC Act – Chapter 14

- ✓ **Clarifies and modernizes language for claim applications received after the time frame for application has expired.**

16(1) An application for compensation under this Part shall be made

(a) within one year after the date of the accident, or

(b) in the case of death, within six months after the date of accident.

16(2)

The Commission may extend the time period referred to in subsection (1) if it considers that the delay is justified.

WC Act – Chapter 14

- ✓ **Employers must establish a workplace procedure requiring a worker to notify them of an accident before leaving the place of employment.**



New!

44(5.1)

Every employer shall establish a procedure that requires a worker to notify the employer of an accident that the employer is required to report to the Commission under subsection (4).



OHS Act

Chapter 15

www.gnb.ca/0062/acts/BBA-2013/Chap-15.pdf

Summary of changes – *OHS Act*

- Health and safety policy
- Health and safety program
- Definition – new employee
- New employee orientation
- Reporting requirements



New!



New!



New!

***OHS Act* amendments - Chapter 15**

- ✓ **Enhances the existing requirements for H&S policies (for certain workplaces).**
- ✓ **Creates the obligation to develop and implement a H&S program.**
- ✓ **New provisions that require health and safety orientation and training for new employees.**
- ✓ **Clarifies requirements for the reporting of accidents and incidents.**

General health and safety practice: A complete framework

Some of the changes to the H&S policy and the new requirements for a H&S program will require larger employers to build a H&S framework by drawing in some of the current legislated requirements and completing it with the new requirements.



Current legislation

Some H&S program elements are already a requirement in some workplaces:

- 1. H&S policy - 8(1) & 17(1)**
- 2. JHSC or a H&S representative - 14 & 17**
- 3. Workplace inspections - 9(2)(a.1) & 9(3)**

OHS Act - Chapter 15

Health & safety policy

8(1) - 8(2)

Employers with 20 or more employees regularly employed in the province shall:

- **establish a written H&S policy in consultation with employees**
- **set out employer and employee responsibilities**
- **keep a copy at each place of employment**

Example of a health & safety policy

(Company name), as employer, is ultimately responsible for worker health and safety. As president (or owner/operator, chairperson, chief executive officer, etc.) of (company name), I personally promise that every reasonable precaution will be taken to protect our workers.

Supervisors will be held accountable for the health and safety of workers under their supervision. Supervisors are responsible to ensure that machinery and equipment are safe and that workers comply with established safe work practices and procedures. Workers must receive adequate training in their specific work tasks to protect their health and safety.

All workers must protect their own health and safety by working in compliance with the law and with safe work practices and procedures established by the company.

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OHS Act - Chapter 15
Health & safety program
Current legislation

Some H&S program elements are already a requirement in some workplaces:

- 1. H&S policy - 8(1) & 17(1)**
- 2. JHSC or a H&S representative - 14 & 17**
- 3. Workplace inspections - 9(2)(a.1) & 9(3)**

OHS Act - Chapter 15 **Health & safety program**



New!

8.1(1) – (3)

Employers with 20 or more employees regularly employed in the province shall establish a written health and safety program

- **in consultation with the JHSC/H&S rep**
- **reviewed annually**
- **copy of program and all records must be made available**

OHS Act - Chapter 15 **Health & safety program**



New!

To complete the framework other components now required:

- 4. Incident investigation - 8.1(1)(e)**
- 5. Hazard identification system - 8.1(1)(d)**
- 6. Written work procedures - 8.1(1)(b),(c)**
- 7. Orientation, training and supervision - 8.1(1)(a)**
- 8. Maintain records and statistics - 8.1(1)(f)**
- 9. Monitoring for implementation and effectiveness 8.1(1)(g)**

OHS Act - Chapter 15 **Definition of “new employee”**



New!

“New employee” means an employee who is:

- a) new to a position or place of employment,**
- b) returning to a position or place of employment in which the hazards have changed during the employee’s absence,**
- c) under 25 years of age and returning to a position or place of employment after an absence of more than six months, or**
- d) affected by a change in the hazards of a position or place of employment**

OHS Act - Chapter 15 **Requirements for a new employee**



New!

8.2(2) & (5)

- **The employer shall ensure that a new employee receives orientation and training before beginning work**
- **Orientation and training records shall be kept at least three years**

OHS Act - Chapter 15 **Orientation program**



New!

8.2(4)

The orientation shall include:

- a) Supervisor's name and contact information**
- b) JHSC / H&S rep contact information**
- c) Rights, responsibilities, liabilities & duties, reporting requirements & right to refuse**
- d) H&S work procedures / codes of practice**

OHS Act - Chapter 15 **Orientation program**



New!

8.2(4) *(continued)*

The orientation shall include:

- e) First aid information**
- f) Reporting procedures for illnesses and injuries**
- g) Emergency procedures**
- h) The use of personal protective equipment**

OHS Act - Chapter 15 Training



New!

8.2(3) If the employer is satisfied, based on written documentation, that the new employee has satisfactory training from a previous employer or third party, the employer may provide orientation only.

OHS Act - Chapter 15

Instruction, training and supervision

9(2)(c)

Employer shall provide the information that is necessary to ensure an employee's health and safety;

- (c.1) provide the instruction that is necessary to ensure an employee's health and safety;**
- (c.2) provide the training that is necessary to ensure an employee's health and safety;**
- (c.3) provide the supervision that is necessary to ensure an employee's health and safety;**

OHS Act - Chapter 15 **Orders left by Health and Safety Officers**



New!

Sections are added allowing H&S officers more options to establish compliance with an order:

- 33.1(1) Officer may require that a written report be submitted outlining the employer's compliance**
- 33.1(2) The written report shall be made within the time period given by the officer**
- 33.1(3) Written report shall be signed by employer and a member of the JHSC or h&s rep**

43(1)

The employer shall notify WorkSafeNB immediately if an employee suffers an injury resulting in

- a) a loss of consciousness,**
- b) an amputation,**
- c) a fracture other than fracture to fingers or toes,**
- d) a burn that requires medical attention**

43(1) *(continued)*

- e) a loss of vision in one or both eyes,**
- f) a deep laceration,**
- g) admission to a hospital facility as an in-patient, or**
- h) death.**

OHS Act - Chapter 15 **Reporting requirements**

1 800 222-9775

43(4)

The employer shall notify the Commission immediately if

- a) an accidental explosion or an accidental exposure to a biological, chemical or physical agent occurs at a place of employment, whether or not a person is injured, or**
- b) a catastrophic event or a catastrophic equipment failure occurs at a place of employment that results, or could have resulted, in an injury.**

