



Labour and Advanced Education

Reference Guide OCCUPATIONAL HEALTH REGULATIONS

Produced by the
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Disclaimer:

The commentary found in this document is not intended to be an exhaustive interpretation or to constitute legal advice to members of the public. This document is prepared for convenience only, and for accurate reference, the reader should see the official volumes of the legislation.

Definitions

1 In these regulations

- (a) "employee" means any person who is in the service of an employer and shall include any person in training or being instructed in the course of any education or training program as preliminary to employment;
- (b) "employer" means any person, association, body, corporation or agency having control or direction of or being responsible, directly or indirectly, for the employment of any employee;
- (c) "Director" means the Director of the Occupational Health and Safety Division of the Department of Environment and Labour;
- (d) "inspection officer" means any person appointed pursuant to Section 3 of these regulations;
- (e) "standard" means any standard issued pursuant to Section 4 of these regulations;
- (f) "Notification Order" means any order issued pursuant to Section 7 of these regulations;
- (g) "Compliance Order" means any order issued pursuant to Section 8 of these regulations.

Note that the terms "employee" and "employer" are both defined in the Occupational Health and Safety Act. In the event of any conflict, the definitions in the Act would prevail. (November 13, 2001)

Application

- 2 These regulations shall apply to any undertaking in which one or more persons are employed for any purpose and shall apply to all occupational groups.

Inspection officer

- 3 (1) The Minister may appoint inspection officers for the purpose of carrying out any duty necessary to the administration of these regulations and may limit such appointments to specifically designated areas of interest.
- (2) For the performance of any duty authorized by these regulations, an inspection officer may enter at any time during working hours upon any property, place, or thing used in connection with the operation of any undertaking to which these regulations apply and may interview any employer or any employee on an individual basis.

Occupational health standards

4 (1) The occupational health standards relating to gases, vapours, mists, fumes, smoke, dust, and other chemical substances and physical agents shall be as listed in the Threshold Limit Values for chemical substances and physical agents for 1976, published by the American Conference of Governmental Industrial Hygienists and its subsequent amendments or revisions.

The Threshold Limit Values contain limits for ionizing radiation generated by radioactive substances - an area also regulated by federal law. As an aid to determining which laws apply, the following are offered:

- 1) if the organization's primary business is one that is provincially regulated (such as a hospital or a university) AND the use of ionizing radiation generated by radioactive substances is incidental and subordinate to the primary business, the allowable exposures to such radiation are as listed in these regulations.
- 2) aside from these regulations, the federal government has the power to (and does) license installations using ionizing radiation generated by radioactive substances
- 3) radiation generated by electrical or similar means (such as x-rays or electromagnetic fields) is provincially regulated and these regulations apply to provincially-regulated installations using such equipment. (November 13, 2001).

The TLV booklet sets radiation limits for all devices including, computers and monitors (Jan 1, 2004)

Limits for working in hot environments is also covered by the TLV - the temperature values are integrated value of actual temperature, humidity, wind speed, and radiant heat. There is no automatic right to going home when it is "too hot" (Jan 1, 2004)

(2) Where there is any conflict between any other regulation made under the Occupational Health and Safety Act and these regulations, the provisions of these regulations shall apply.

Employee's responsibility

- 5 Every employee shall comply with the applicable occupational health standards and with all orders, rules and regulations applicable to his or her own actions and conduct.

Employer's responsibility

- 6 It shall be the responsibility of every employer to maintain a healthy occupational environment at the workplace in accordance with the applicable occupational health standards.

Notification Order

- 7 (1) Where after an inspection or investigation made in connection with these regulations, it can be shown that an occupational health hazard exists and that the employer has been advised of the hazard, its extent and implication, then the employer shall be issued with a Notification Order.
- (2) The advice to the employer referred to in subsection (1) may be in the form of
- (a) an inspection, investigation or survey report, dated and signed by an inspection officer; or
 - (b) a letter signed by an inspection officer.
- (3) The Notification Order referred to in subsection (1) shall
- (a) be in writing;
 - (b) record that the employer is in violation of these regulations;
 - (c) describe the health hazard;
 - (d) specify a period of time within which the employer shall be required to improve or remedy the hazardous situation.

Compliance Order

- 8 (1) If during an inspection made after expiry of the period of time specified in a Notification Order, an inspection officer finds that all of the required actions to remove or abate the occupational health hazard have not been taken, he shall report the facts to the Director.
- (2) On receipt of the information referred to in subsection (1) the Director may request the Minister to issue a Compliance Order.
- (3) The Compliance Order referred to in subsection (2) shall
- (a) be in writing;
 - (b) record that the employer is in violation of these regulations;
 - (c) record that a Notification Order has been issued;
 - (d) specify a period of time within which the employer shall be required to remedy the hazardous situation.
- (4) The period of time referred to in subsection (3) shall normally be fifteen working days from the date of receipt of the Compliance Order but may be reduced or extended at the discretion of the Minister.
- (5) If an employer does not remedy the hazardous situation in accordance with the terms of the Compliance Order, then the Minister may request the Attorney General to institute court action against the employer concerned.

Codes of practice

- 9 (1) In a Compliance Order, the Minister may direct that a code of practice be developed by the employer in consultation with the employees and sent to the Director for approval on behalf of the Minister.
- (2) Where a code of practice has been approved, it shall be displayed in a prominent place within all areas to which it shall apply.

Medical examination

- 10 Where in the opinion of the Director in respect of any occupational health hazard to which these regulations apply a medical examination is indicated, the requirements shall be defined in a Notification Order signed by him.