

The Occupational Health and Safety Act

This excerpt from the Occupational Health and Safety Act sets out some of the key sections of the Act that may have intentional or unintentional effects on what happens in parks and public spaces.

****This excerpt is not done by a lawyer and is offered for discussion purposes only. ****

The full text of the law is found at http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_90o01_e.htm

s. 1 Definitions –

“committee” means a joint health and safety committee established under this Act; (“comité”)

“competent person” means a person who,

(a) is qualified because of knowledge, training and experience to organize the work and its performance,

(b) is familiar with this Act and the regulations that apply to the work, and

(c) has knowledge of any potential or actual danger to health or safety in the workplace; (“personne compétente”)

“construction” includes erection, alteration, repair, dismantling, demolition, structural maintenance, painting, land clearing, earth moving, grading, excavating, trenching, digging, boring, drilling, blasting, or concreting, the installation of any machinery or plant, and any work or undertaking in connection with a project but does not include any work or undertaking underground in a mine; (“construction”)

“supervisor” means a person who has charge of a workplace or authority over a worker; (“superviseur”)

“worker” means a person who performs work or supplies services for monetary compensation but does not include an inmate of a correctional institution or like institution or facility who participates inside the institution or facility in a work project or rehabilitation program; (“travailleur”)

“workplace” means any land, premises, location or thing at, upon, in or near which a worker works. (“lieu de travail”) R.S.O. 1990, c. O.1, s. 1 (1); 1993, c. 27, Sched.; 1994, c. 24, s. 35; 1994, c. 25, s. 83 (1); 1997, c. 16, s. 2 (1-3); 1998, c. 8, s. 49.

PART II

ADMINISTRATION

Appointment of inspectors and Directors

6. (1) Such persons as may be necessary to administer and enforce this Act and the regulations may be appointed as inspectors by the Deputy Minister and the Deputy Minister may designate one or more of the inspectors as a Director or Directors.

Mandatory selection of health and safety representative

8. (1) At a project or other workplace where no committee is required under section 9 and where the number of workers regularly exceeds five, the constructor or employer

shall cause the workers to select at least one health and safety representative from among the workers at the workplace who do not exercise managerial functions.

Selection of representatives

(5) The selection of a health and safety representative shall be made by those workers who do not exercise managerial functions and who will be represented by the health and safety representative in the workplace, or the part or parts thereof, as the case may be, or, where there is a trade union or trade unions representing such workers, by the trade union or trade unions.

Inspections

(6) Unless otherwise required by the regulations or by an order by an inspector, a health and safety representative shall inspect the physical condition of the workplace at least once a month.

Idem

(7) If it is not practical to inspect the workplace at least once a month, the health and safety representative shall inspect the physical condition of the workplace at least once a year, inspecting at least a part of the workplace in each month.

Schedule of inspections

(8) The inspection required by subsection (7) shall be undertaken in accordance with a schedule agreed upon by the constructor or employer and the health and safety representative.

Inspections

(9) The constructor, employer and workers shall provide a health and safety representative with such information and assistance as the member may require for the purpose of carrying out an inspection of the workplace.

Idem

(10) A health and safety representative has power to identify situations that may be a source of danger or hazard to workers and to make recommendations or report his or her findings thereon to the employer, the workers and the trade union or trade unions representing the workers.

Powers of representative

(11) A health and safety representative has the power,

(a) to obtain information from the constructor or employer concerning the conducting or taking of tests of any equipment, machine, device, article, thing, material or biological, chemical or physical agent in or about a workplace for the purpose of occupational health and safety;

(b) to be consulted about, and be present at the beginning of, testing referred to in clause (a) conducted in or about the workplace if the representative believes his or her presence is required to ensure that valid testing procedures are used or to ensure that the test results are valid; and

(c) to obtain information from the constructor or employer respecting,

(i) the identification of potential or existing hazards of materials, processes or equipment, and

(ii) health and safety experience and work practices and standards in similar or other industries of which the constructor or employer has knowledge.

Response to recommendations

(12) A constructor or employer who receives written recommendations from a health and safety representative shall respond in writing within twenty-one days.

Idem

(13) A response of a constructor or employer under subsection (12) shall contain a timetable for implementing the recommendations the constructor or employer agrees with and give reasons why the constructor or employer disagrees with any recommendations that the constructor or employer does not accept.

Notice of accident, inspection by representative

(14) Where a person is killed or critically injured at a workplace from any cause, the health and safety representative may, subject to (2), inspect the place where the accident occurred and any subsection 51 machine, device or thing, and shall report his or her findings in writing to a Director.

Entitlement to time from work

(15) A health and safety representative is entitled to take such time from work as is necessary to carry out his or her duties under subsections (6) and (14) and the time so spent shall be deemed to be work time for which the representative shall be paid by his or her employer at the representative's regular or premium rate as may be proper.

Additional powers of certain health and safety representatives

(16) A health and safety representative or representatives of like nature appointed or selected under the provisions of a collective agreement or other agreement or arrangement between the constructor or the employer and the workers, has, in addition to his or her functions and powers under the provisions of the collective agreement or other agreement or arrangement, the functions and powers conferred upon a health and safety representative by this section. R.S.O. 1990, c. O.1, s. 8.

Joint health and safety committee

Application

9. (1) Subject to subsection (3), this section does not apply,

(a) to a constructor at a project at which work is expected to last less than three months; or

(b) to a prescribed employer or workplace or class of employers or workplaces.

R.S.O. 1990, c. O.1, s. 9 (1).

Joint health and safety committee

(2) A joint health and safety committee is required,

(a) at a workplace at which twenty or more workers are regularly employed;

(b) at a workplace with respect to which an order to an employer is in effect under section 33; or

(c) at a workplace, other than a construction project where fewer than twenty workers are regularly employed, with respect to which a regulation concerning designated substances applies. R.S.O. 1990, c. O.1, s. 9 (2).

Composition of committee

(6) A committee shall consist of,

(a) at least two persons, for a workplace where fewer than fifty workers are regularly employed; or

(b) at least four persons or such greater number of people as may be prescribed, for a workplace where fifty or more workers are regularly employed. R.S.O. 1990, c. O.1, s. 9 (6).

Idem

(7) At least half the members of a committee shall be workers employed at the workplace who do not exercise managerial functions. R.S.O. 1990, c. O.1, s. 9 (7).

Selection of members

(8) The members of a committee who represent workers shall be selected by the workers they are to represent or, if a trade union or unions represent the workers, by the trade union or unions. R.S.O. 1990, c. O.1, s. 9 (8).

Idem

(9) The constructor or employer shall select the remaining members of a committee from among persons who exercise managerial functions for the constructor or employer and, to the extent possible, who do so at the workplace. R.S.O. 1990, c. O.1, s. 9 (9).

Requirement for committee membership

(10) A member of the committee who ceases to be employed at the workplace ceases to be a member of the committee. R.S.O. 1990, c. O.1, s. 9 (10).

Committee to be co-chaired

(11) Two of the members of a committee shall co-chair the committee, one of whom shall be selected by the members who represent workers and the other of whom shall be selected by the members who exercise managerial functions. R.S.O. 1990, c. O.1, s. 9 (11).

Designation of member to be certified

(14) If no member representing workers is a certified member, the workers or the trade unions who selected the members representing workers shall select from among them one or more who are to become certified. R.S.O. 1990, c. O.1, s. 9 (14).

Powers of committee

- (18) It is the function of a committee and it has power to,
- (a) identify situations that may be a source of danger or hazard to workers;
 - (b) make recommendations to the constructor or employer and the workers for the improvement of the health and safety of workers;
 - (c) recommend to the constructor or employer and the workers the establishment, maintenance and monitoring of programs, measures and procedures respecting the health or safety of workers;
 - (d) obtain information from the constructor or employer respecting,
 - (i) the identification of potential or existing hazards of materials, processes or equipment, and
 - (ii) health and safety experience and work practices and standards in similar or other industries of which the constructor or employer has knowledge;
 - (e) obtain information from the constructor or employer concerning the conducting or taking of tests of any equipment, machine, device, article, thing, material or biological, chemical or physical agent in or about a workplace for the purpose of occupational health and safety; and
 - (f) be consulted about, and have a designated member representing workers be present at the beginning of, testing referred to in clause (e) conducted in or about the workplace if the designated member believes his or her presence is required to ensure that valid testing procedures are used or to ensure that the test results are valid. R.S.O. 1990, c. O.1, s. 9 (18).

Response to recommendations

(20) A constructor or employer who receives written recommendations from a committee shall respond in writing within twenty-one days. R.S.O. 1990, c. O.1, s. 9 (20).

Idem

(21) A response of a constructor or employer under subsection (20) shall contain a timetable for implementing the recommendations the constructor or employer agrees with and give reasons why the constructor or employer disagrees with any recommendations that the constructor or employer does not accept. R.S.O. 1990, c. O.1, s. 9 (21).

Minutes of proceedings

(22) A committee shall maintain and keep minutes of its proceedings and make the same available for examination and review by an inspector. R.S.O. 1990, c. O.1, s. 9 (22).

Inspections

(23) Subject to subsection (24), the members of a committee who represent workers shall designate a member representing workers to inspect the physical condition of the workplace. R.S.O. 1990, c. O.1, s. 9 (23).

Idem

(24) If possible, the member designated under subsection (23) shall be a certified member. R.S.O. 1990, c. O.1, s. 9 (24).

Idem

(25) The members of a committee are not required to designate the same member to perform all inspections or to perform all of a particular inspection. R.S.O. 1990, c. O.1, s. 9 (25).

Idem

(26) Unless otherwise required by the regulations or by an order by an inspector, a member designated under subsection (23) shall inspect the physical condition of the workplace at least once a month. R.S.O. 1990, c. O.1, s. 9 (26).

Idem

(27) If it is not practical to inspect the workplace at least once a month, the member designated under subsection (23) shall inspect the physical condition of the workplace at least once a year, inspecting at least a part of the workplace in each month. R.S.O. 1990, c. O.1, s. 9 (27).

Schedule of inspections

(28) The inspection required by subsection (27) shall be undertaken in accordance with a schedule established by the committee. R.S.O. 1990, c. O.1, s. 9 (28).

Inspections

(29) The constructor, employer and the workers shall provide a member designated under subsection (23) with such information and assistance as the member may require for the purpose of carrying out an inspection of the workplace. R.S.O. 1990, c. O.1, s. 9 (29).

Information reported to the committee

(30) The member shall inform the committee of situations that may be a source of danger or hazard to workers and the committee shall consider such information within a reasonable period of time. R.S.O. 1990, c. O.1, s. 9 (30).

Idem

(31) The members of a committee who represent workers shall designate one or more such members to investigate cases where a worker is killed or critically injured at a workplace from any cause and one of those members may, subject to subsection 51 (2), inspect the place where the accident occurred and any machine, device or thing, and shall report his or her findings to a Director and to the committee. R.S.O. 1990, c. O.1, s. 9 (31).

Posting of names and work locations

(32) A constructor or an employer required to establish a committee under this section shall post and keep posted at the workplace the names and work locations of the committee members in a conspicuous place or places where they are most likely to come to the attention of the workers. R.S.O. 1990, c. O.1, s. 9 (32).

Meetings

(33) A committee shall meet at least once every three months at the workplace and may be required to meet by order of the Minister. R.S.O. 1990, c. O.1, s. 9 (33).

Entitlement to time from work

(34) A member of a committee is entitled to,
(a) one hour or such longer period of time as the committee determines is necessary to prepare for each committee meeting;
(b) such time as is necessary to attend meetings of the committee; and
(c) such time as is necessary to carry out the member's duties under subsections (26), (27) and (31). R.S.O. 1990, c. O.1, s. 9 (34).

Entitlement to be paid

(35) A member of a committee shall be deemed to be at work during the times described in subsection (34) and the member's employer shall pay the member for those times at the member's regular or premium rate as may be proper. R.S.O. 1990, c. O.1, s. 9 (35).

Idem

(36) A member of a committee shall be deemed to be at work while the member is fulfilling the requirements for becoming certified by the Workplace Safety and Insurance Board and the member's employer shall pay the member for the time spent at the member's regular or premium rate as may be proper. R.S.O. 1990, c. O.1, s. 9 (36); 1998, c. 8, s. 50 (1).

Additional powers of certain committees

(38) Any committee of a like nature to a committee established under this section in existence in a workplace under the provisions of a collective agreement or other agreement or arrangement between a constructor or an employer and the workers has, in addition to its functions and powers under the provisions of the collective agreement or other agreement or arrangement, the functions and powers conferred upon a committee by this section. R.S.O. 1990, c. O.1, s. 9 (38).

Summary to be furnished

12. (1) For workplaces to which the insurance plan established under the Workplace Safety and Insurance Act, 1997 applies, the Workplace Safety and Insurance Board, upon the request of an employer, a worker, committee, health and safety representative or trade union, shall send to the employer, and to the worker, committee, health and safety representative or trade union requesting the information an annual summary of data relating to the employer in respect of the number of work accident fatalities, the number

of lost work day cases, the number of lost work days, the number of non-fatal cases that required medical aid without lost work days, the incidence of occupational illnesses, the number of occupational injuries, and such other data as the Board may consider necessary or advisable. R.S.O. 1990, c. O.1, s. 12 (1); 1997, c. 16, s. 2 (4).

Director to provide information

(3) A Director shall, in accordance with the objects and purposes of this Act, ensure that persons and organizations concerned with the purposes of this Act are provided with information and advice pertaining to its administration and to the protection of the occupational health and occupational safety of workers generally. R.S.O. 1990, c. O.1, s. 12 (2, 3).

Advisory committees

21. (1) The Minister may appoint committees, (1), or persons to assist or which are not committees as defined in subsection 1 advise the Minister on any matter arising under this Act or to inquire into and report to the Minister on any matter that the Minister considers advisable. R.S.O. 1990, c. O.1, s. 21 (1).

Remuneration and expenses

(2) Any person appointed under subsection (1) who is not an officer in the public service of the Province of Ontario may be paid such remuneration and expenses as may be from time to time fixed by the Lieutenant Governor in Council. R.S.O. 1990, c. O.1, s. 21 (2).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (2) is amended by the Statutes of Ontario, 2006, chapter 35, Schedule C, subsection 93 (2) by striking out “an officer in the public service of the Province of Ontario” and substituting “a public servant within the meaning of the Public Service of Ontario Act, 2006”. See: 2006, c. 35, Sched. C, ss. 93 (2), 137 (1).

perhaps strike an advisory committee to report on the ways in which the osha and other “public welfare” legislation impedes and/or fits in public spaces

PART III

DUTIES OF EMPLOYERS AND OTHER PERSONS

Duties of constructor

23. (1) A constructor shall ensure, on a project undertaken by the constructor that,
(a) the measures and procedures prescribed by this Act and the regulations are carried out on the project;

(b) every employer and every worker performing work on the project complies with this Act and the regulations; and

(c) the health and safety of workers on the project is protected.

“constructor” means a person who undertakes a project for an owner and includes an owner who undertakes all or part of a project by himself or by more than one employer; (“constructeur”)

Duties of employers

25. (1) An employer shall ensure that,

(a) the equipment, materials and protective devices as prescribed are provided;

(b) the equipment, materials and protective devices provided by the employer are maintained in good condition;

(c) the measures and procedures prescribed are carried out in the workplace;

(d) the equipment, materials and protective devices provided by the employer are used as prescribed; and

(e) a floor, roof, wall, pillar, support or other part of a workplace is capable of supporting all loads to which it may be subjected without causing the materials therein to be stressed beyond the allowable unit stresses established under the Building Code Act.

Idem

(2) Without limiting the strict duty imposed by subsection (1), an employer shall,

(a) provide information, instruction and supervision to a worker to protect the health or safety of the worker;

(b) in a medical emergency for the purpose of diagnosis or treatment, provide, upon request, information in the possession of the employer, including confidential business information, to a legally qualified medical practitioner and to such other persons as may be prescribed;

(c) when appointing a supervisor, appoint a competent person;

(d) acquaint a worker or a person in authority over a worker with any hazard in the work and in the handling, storage, use, disposal and transport of any article, device, equipment or a biological, chemical or physical agent;

(e) afford assistance and co-operation to a committee and a health and safety representative in the carrying out by the committee and the health and safety representative of any of their functions;

(f) only employ in or about a workplace a person over such age as may be prescribed;

(g) not knowingly permit a person who is under such age as may be prescribed to be in or about a workplace;

(h) take every precaution reasonable in the circumstances for the protection of a worker;

(i) post, in the workplace, a copy of this Act and any explanatory material prepared by the Ministry, both in English and the majority language of the workplace, outlining the rights, responsibilities and duties of workers;

(j) prepare and review at least annually a written occupational health and safety policy and develop and maintain a program to implement that policy;

(k) post at a conspicuous location in the workplace a copy of the occupational health and safety policy;

(l) provide to the committee or to a health and safety representative the results of a report respecting occupational health and safety that is in the employer's possession and, if that report is in writing, a copy of the portions of the report that concern occupational health and safety; and

(m) advise workers of the results of a report referred to in clause (l) and, if the report is in writing, make available to them on request copies of the portions of the report that concern occupational health and safety.

Idem

(3) (c), an employer may appointFor the purposes of clause (2) himself or herself as a supervisor where the employer is a competent person.

Idem

(4) Clause (2) (j) does not apply with respect to a workplace at which five or fewer employees are regularly employed. R.S.O. 1990, c. O.1, s. 25.

Additional duties of employers

26. (1) In addition to the duties imposed by section 25, an employer shall,
- (a) establish an occupational health service for workers as prescribed;
 - (b) where an occupational health service is established as prescribed, maintain the same according to the standards prescribed;
 - (c) keep and maintain accurate records of the handling, storage, use and disposal of biological, chemical or physical agents as prescribed;
 - (d) accurately keep and maintain and make available to the worker affected such records of the exposure of a worker to biological, chemical or physical agents as may be prescribed;
 - (e) notify a Director of the use or introduction into a workplace of such biological, chemical or physical agents as may be prescribed;
 - (f) monitor at such time or times or at such interval or intervals the levels of biological, chemical or physical agents in a workplace and keep and post accurate records thereof as prescribed;
 - (g) comply with a standard limiting the exposure of a worker to biological, chemical or physical agents as prescribed;
 - (h) establish a medical surveillance program for the benefit of workers as prescribed;
 - (i) provide for safety-related medical examinations and tests for workers as prescribed;
 - (j) where so prescribed, only permit a worker to work or be in a workplace who has undergone such medical examinations, tests or x-rays as prescribed and who is found to be physically fit to do the work in the workplace;
 - (k) where so prescribed, provide a worker with written instructions as to the measures and procedures to be taken for the protection of a worker; and
 - (l) carry out such training programs for workers, supervisors and committee members as may be prescribed.

Idem

(2) (a), a group of employers, For the purposes of clause (1) with the approval of a Director, may act as an employer. R.S.O. 1990, c. O.1, s. 26 (1, 2).

Idem

(3) If a worker participates in a prescribed medical surveillance program or undergoes prescribed medical examinations or tests, his or her employer shall pay,

- (a) the worker's costs for medical examinations or tests required by the medical surveillance program or required by regulation;
- (b) the worker's reasonable travel costs respecting the examinations or tests; and
- (c) the time the worker spends to undergo the examinations or tests, including travel time, which shall be deemed to be work time for which the worker shall be paid at his or her regular or premium rate as may be proper. R.S.O. 1990, c. O.1, s. 26 (3); 1994, c. 27, s. 120 (3).

Duties of supervisor

27. (1) A supervisor shall ensure that a worker,
- (a) works in the manner and with the protective devices, measures and procedures required by this Act and the regulations; and

(b) uses or wears the equipment, protective devices or clothing that the worker's employer requires to be used or worn.

Additional duties of supervisor

(2) Without limiting the duty imposed by subsection (1), a supervisor shall,

(a) advise a worker of the existence of any potential or actual danger to the health or safety of the worker of which the supervisor is aware;

(b) where so prescribed, provide a worker with written instructions as to the measures and procedures to be taken for protection of the worker; and

(c) take every precaution reasonable in the circumstances for the protection of a worker. R.S.O. 1990, c. O.1, s. 27.

Duties of workers

28. (1) A worker shall,

(a) work in compliance with the provisions of this Act and the regulations;

(b) use or wear the equipment, protective devices or clothing that the worker's employer requires to be used or worn;

(c) report to his or her employer or supervisor the absence of or defect in any equipment or protective device of which the worker is aware and which may endanger himself, herself or another worker; and

(d) report to his or her employer or supervisor any contravention of this Act or the regulations or the existence of any hazard of which he or she knows.

Idem

(2) No worker shall,

(a) remove or make ineffective any protective device required by the regulations or by his or her employer, without providing an adequate temporary protective device and when the need for removing or making ineffective the protective device has ceased, the protective device shall be replaced immediately;

(b) use or operate any equipment, machine, device or thing or work in a manner that may endanger himself, herself or any other worker; or

(c) engage in any prank, contest, feat of strength, unnecessary running or rough and boisterous conduct.

Duties of owners

29. (1) The owner of a workplace that is not a project shall,

(a) ensure that,

(i) such facilities as are prescribed are provided,

(ii) any facilities prescribed to be provided are maintained as prescribed,

(iii) the workplace complies with the regulations, and

(iv) no workplace is constructed, developed, reconstructed, altered or added to except in compliance with this Act and the regulations; and

(b) where so prescribed, furnish to a Director any drawings, plans or specifications of any workplace as prescribed.

Presumably, the city is an owner

-this may very well apply to Georgie – check regs

Duties of suppliers

31. (1) Every person who supplies any machine, device, tool or equipment under any rental, leasing or similar arrangement for use in or about a workplace shall ensure,

- (a) that the machine, device, tool or equipment is in good condition;
- (b) that the machine, device, tool or equipment complies with this Act and the regulations; and
- (c) if it is the person's responsibility under the rental, leasing or similar arrangement to do so, that the machine, device, tool or equipment is maintained in good condition.

Architects and engineers

(2) An architect as defined in the Architects Act, and a professional engineer as defined in the Professional Engineers Act, contravenes this Act if, as a result of his or her advice that is given or his or her certification required under this Act that is made negligently or incompetently, a worker is endangered. R.S.O. 1990, c. O.1, s. 31.

Duties of directors and officers of a corporation

32. Every director and every officer of a corporation shall take all reasonable care to ensure that the corporation complies with,

- (a) this Act and the regulations;
- (b) orders and requirements of inspectors and Directors; and
- (c) orders of the Minister. R.S.O. 1990, c. O.1, s. 32.

PART V

RIGHT TO REFUSE OR TO STOP WORK WHERE HEALTH OR SAFETY IN DANGER

Report of refusal to work

(4) Upon refusing to work or do particular work, the worker shall promptly report the circumstances of the refusal to the worker's employer or supervisor who shall forthwith investigate the report in the presence of the worker and, if there is such, in the presence of one of,

- (a) a committee member who represents workers, if any;
- (b) a health and safety representative, if any; or
- (c) a worker who because of knowledge, experience and training is selected by a trade union that represents the worker, or if there is no trade union, is selected by the workers to represent them,

who shall be made available and who shall attend without delay. R.S.O. 1990, c. O.1, s. 43 (4).

Definition

44. (1) In sections 45 to 48, "dangerous circumstances" means a situation in which,

- (a) a provision of this Act or the regulations is being contravened,
- (b) the contravention poses a danger or a hazard to a worker, and
- (c) the danger or hazard is such that any delay in controlling it may seriously endanger a worker.

This may be a relevant reference to other situations e.g. enforcement in the case of "dangerous" situations

PART VII

NOTICES

PART VIII ENFORCEMENT

Powers of inspector

very, very broad

who are inspectors and what is their training? background requirements? What parts of training look at balancing, discretion, discernment as to what kind of place they are inspecting?

Representative to accompany inspector

(3) Where an inspector makes an inspection of a workplace under the powers conferred upon him or her under subsection (1), the constructor, employer or group of employers shall afford a committee member representing workers or a health and safety representative, if any, or a worker selected by a trade union or trade unions, if any, because of knowledge, experience and training, to represent it or them and, where there is no trade union, a worker selected by the workers because of knowledge, training and experience to represent them, the opportunity to accompany the inspector during his or her physical inspection of a workplace, or any part or parts thereof. R.S.O. 1990, c. O.1, s. 54 (3).

Consultation with workers

(4) Where there is no committee member representing workers, no health and safety representative or worker selected under subsection (3), the inspector shall endeavour to consult during his or her physical inspection with a reasonable number of the workers concerning matters of health and safety at their work. R.S.O. 1990, c. O.1, s. 54 (4).

Entitlement to time from work

(5) The time spent by a committee member representing workers, a health and safety representative or a worker selected in accordance with subsection (3) in accompanying an inspector during his or her physical inspection, shall be deemed to be work time for which he or she shall be paid by his or her employer at his or her regular or premium rate as may be proper. R.S.O. 1990, c. O.1, s. 54 (5).

Order for inspections

55.(26), an inspector Subject to subsection 9 may in writing direct a health and safety representative or a member designated (23) to inspect the physical condition of all or part of a under subsection 9 workplace at specified intervals. R.S.O. 1990, c. O.1, s. 55.

Orders by inspectors where non-compliance

57. (1) Where an inspector finds that a provision of this Act or the regulations is being contravened, the inspector may order, orally or in writing, the owner, constructor, licensee, employer, or person whom he or she believes to be in charge of a workplace or the person whom the inspector believes to be the contravener to comply with the provision and may require the order to be carried out forthwith or within such period of time as the inspector specifies. R.S.O. 1990, c. O.1, s. 57 (1).

Idem

(2) Where an inspector makes an oral order under subsection (1), the inspector shall confirm the order in writing before leaving the workplace. R.S.O. 1990, c. O.1, s. 57 (2).

Contents of order

(3) An order made under subsection (1) shall indicate generally the nature of the contravention and where appropriate the location of the contravention. R.S.O. 1990, c. O.1, s. 57 (3).

Compliance plan

(4) An order made under subsection (1) may require a constructor, a licensee or an employer to submit to the Ministry a compliance plan prepared in the manner and including such items as required by the order. R.S.O. 1990, c. O.1, s. 57 (4).

Idem

(5) The compliance plan shall specify what the constructor, licensee or employer plans to do to comply with the order and when the constructor, licensee or employer intends to achieve compliance. R.S.O. 1990, c. O.1, s. 57 (5).

Orders by inspector where worker endangered

(6) Where an inspector makes an order under subsection (1) and finds that the contravention of this Act or the regulations is a danger or hazard to the health or safety of a worker, the inspector may,

Resumption of work pending inspection

(7) Despite clause (6) (b), a constructor, a licensee or an employer who gives notice to an inspector of compliance with an order made under subsection (6) may resume work pending an inspection and decision by an inspector respecting compliance with the order if, before the resumption of work, a committee member representing workers or a health and safety representative, as the case may be, advises an inspector that in his or her opinion the order has been complied with. R.S.O. 1990, c. O.1, s. 57 (7).

Notice of compliance

59. (1) Within three days after a constructor or employer who has received an order under section 57 believes that compliance with the order has been achieved, the constructor or employer shall submit to the Ministry a notice of compliance.

Idem

(2) The notice shall be signed by the constructor or employer and shall be accompanied by,

(a) a statement of agreement or disagreement with the contents of the notice, signed by a member of the committee representing workers or by a health and safety representative, as the case may be; or

(b) a statement that the member or representative has declined to sign the statement referred to in clause (a).

Notice of compliance

59. (1) Within three days after a constructor or employer who has received an order under section 57 believes that compliance with the order has been achieved, the constructor or employer shall submit to the Ministry a notice of compliance.

Idem

(2) The notice shall be signed by the constructor or employer and shall be accompanied by,

(a) a statement of agreement or disagreement with the contents of the notice, signed by a member of the committee representing workers or by a health and safety representative, as the case may be; or

(b) a statement that the member or representative has declined to sign the statement referred to in clause (a).

Compliance achieved

(4) Despite the submission of a notice of compliance, a constructor or employer achieves compliance with an order under section 57 when an inspector determines that compliance has been achieved. R.S.O. 1990, c. O.1, s. 59.

Appeals from order of an inspector

61. (1) Any employer, constructor, licensee, owner, worker or trade union which considers himself, herself or itself aggrieved by any order made by an inspector under this Act or the regulations may appeal to the Board within 30 days after the making of the order. 1998, c. 8, s. 57 (1).

Inquiry by labour relations officer

(3) The Board may authorize a labour relations officer to inquire into an appeal. 1998, c. 8, s. 57 (2).

Same

(3.1) The labour relations officer shall forthwith inquire into the appeal and endeavour to effect a settlement of the matters raised in the appeal. 1998, c. 8, s. 57 (2).

Report to Board

(3.2) The labour relations officer shall report the results of his or her inquiry and endeavours to the Board. 1998, c. 8, s. 57 (2).

Hearings

(3.3) Subject to the rules made under subsection (3.8), the Board shall hold a hearing to consider the appeal unless the Board makes an order under subsection (3.4). 1998, c. 8, s. 57 (2).

Orders after consultation

(3.4) The Board may make any interim or final order it considers appropriate after consulting with the parties. 1998, c. 8, s. 57 (2).

Obstruction of inspector

62. (1) No person shall hinder, obstruct, molest or interfere with or attempt to hinder, obstruct, molest or interfere with an inspector in the exercise of a power or the performance of a duty under this Act or the regulations or in the execution of a warrant issued under this Act or the Provincial Offences Act with respect to a matter under this Act or the regulations. 2001, c. 26, s. 4.

Assistance

(2) Every person shall furnish all necessary means in the person's power to facilitate any entry, search, inspection, investigation, examination, testing or inquiry by an inspector,

(a) in the exercise of his or her powers or the performance of his or her duties under this Act or the regulations; or

(b) in the execution of a warrant issued under this Act or the Provincial Offences Act with respect to a matter under this Act or the regulations. 2001, c. 26, s. 4.

False information, etc.

(3) No person shall knowingly furnish an inspector with false information or neglect or refuse to furnish information required by an inspector,

(a) in the exercise of his or her powers or the performance of his or her duties under this Act or the regulations; or

(b) in the execution of a warrant issued under this Act or the Provincial Offences Act with respect to a matter under this Act or the regulations. 2001, c. 26, s. 4.

Monitoring devices

(4) No person shall interfere with any monitoring equipment or device in a workplace. R.S.O. 1990, c. O.1, s. 62 (4).

Obstruction of committee, etc.

(5) No person shall knowingly,

(a) hinder or interfere with a committee, a committee member or a health and safety representative in the exercise of a power or performance of a duty under this Act;

(b) furnish a committee, a committee member or a health and safety representative with false information in the exercise of a power or performance of a duty under this Act; or

(c) hinder or interfere with a worker selected by a trade union or trade unions or a worker selected by the workers to represent them in the exercise of a power or performance of a duty under this Act. R.S.O. 1990, c. O.1, s. 62 (5).

Immunity

65. (1) No action or other proceeding for damages, prohibition or mandamus shall be instituted respecting any act done in good faith in the execution or intended execution of a person's duties under this Act or in the exercise or intended exercise of a person's powers under this Act or for any alleged neglect or default in the execution or performance in good faith of the person's duties or powers if the person is,

(a) an employee of the Ministry or a person who acts as an advisor for the Ministry;

Note: On a day to be named by proclamation of the Lieutenant Governor, clause (a) is amended by the Statutes of Ontario, 2006, chapter 35, Schedule C, subsection 93 (6) by striking out "an employee of the Ministry" at the beginning and substituting "an employee in the Ministry". See: 2006, c. 35, Sched. C, ss. 93 (6), 137 (1).

(b) Repealed: 1997, c. 16, s. 2 (14).

(c) the Board or a labour relations officer;

(d) a health and safety representative or a committee member; or

(e) a worker selected by a trade union or trade unions or by workers to represent them. R.S.O. 1990, c. O.1, s. 65 (1); 1995, c. 5, s. 32; 1997, c. 16, s. 2 (14, 15); 1998, c. 8, s. 58.

Penalties

66. (1) Every person who contravenes or fails to comply with,

(a) a provision of this Act or the regulations;

(b) an order or requirement of an inspector or a Director; or

(c) an order of the Minister,

is guilty of an offence and on conviction is liable to a fine of not more than \$25,000 or to imprisonment for a term of not more than twelve months, or to both.

Idem

(2) If a corporation is convicted of an offence under subsection (1), the maximum fine that may be imposed upon the corporation is \$500,000 and not as provided therein.

Defence

(3) On a prosecution for a failure to comply with,

(1); (a) subsection 23

(b), (c) or (d); or(1) (b) clause 25

(1),