



Health & Safety **TOOL KIT**

A Handbook
for Union Officers,
Representatives,
H&S Committee Members
and Activists

Protecting our members



Public Service Alliance of Canada
Alliance de la Fonction publique du Canada



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Introduction

Health and safety has been defined by the International Labour Organization (ILO) as:

“The prevention and maintenance of the highest degree of physical, mental and social well-being

The prevention of ill-health among workers caused by their working conditions.

The protection of workers from factors adverse to their health in their employment, and

The placing and maintaining of workers in occupational environments adapted to their individual and psychological conditions.”

This definition has been adopted by the Canadian Labour Congress and its affiliated Unions including the PSAC. The ILO definition of health and safety goes well beyond the historical concerns of workers, which was about being able to “leave work alive”. We now look at a broad range of issues that affect workers. Not only do we want to ensure our members are not injured in their daily work, we need to look at the work and how it may be affecting their long-term physical and mental health.

Protecting our members is the responsibility of all of us. Even though the Employer is responsible to provide a healthy and safe work environment, it is our responsibility to ensure the Employer complies with their obligations under legislation and our collective agreements.

This handbook will deal with a host of issues related to strengthening our ability to ensure our members not only enjoy their rights but also will know when their rights are being violated.



Health and Safety – A Priority Issue

Health and safety of our members must be a priority issue at all times. The Union's work of achieving better wages, benefits, equality, etc., cannot be enjoyed by our members if their work environment has caused injury, disease or psychological harm. All levels of the Union are key to taking on the challenge of forcing the Employer to comply with all the Acts, Regulations and Collective Agreements that are in effect. There can be no compromise on our member's health, safety and future.

There are a number of roles for the various levels of the Union and in the next sections of this handbook; we will outline some of those roles.

Locals

Involving members – Each PSAC Local must make every effort to have a membership that are aware of their rights and are not shy about bringing any violation of their rights to the attention of Employer or the Local. They need to be comfortable with bringing issues to the Local through the Union's Joint Health & Safety Committee members or through their stewards or local officers. Ongoing awareness, education and communications with the membership are paramount.

Establishing a Local Health and Safety Committee – Aside from Union members on the workplace Joint Health & Safety Committee, the Local should establish a Health & Safety Committee. This Committee should

include union members of the Joint Committee, but may also include other members and/or local officers. The Committee can be responsible for identifying issues to be brought to the Joint Committee. As well, it can look at issues for collective bargaining and legislative action. The Local Health & Safety Committee can be the eyes and ears for the Union Joint Committee members and for the Local Executive.

Workplace Health & Safety Committee – Section 135 of the Canada Labour Code Part II addresses the Joint Workplace Health & Safety Committees. Some Employer representatives may try to limit the size of the joint committees and therefore limit the Unions participation. The Local should press to have the committees established with sufficient members to allow proper representation of varied membership interests and work locations. Locals must also ensure that their representatives on the joint committees are trained. Training can be through either joint union/management training at the workplace or by attending PSAC or CLC Training Programs in your area.

Taking Action – Our Collective Agreements and Part II of the Canada Labour Code establish our legal rights in the area of health and safety. When using Part II of the Code, Sections such as 127 "*Internal Complaints Resolution Process*" gives us the opportunity to try and bring resolve to some issues. The Section also provides for the intervention of a Health & Safety Officer from HRSDC – Labour, if the parties cannot resolve the issue.

On some occasions however, the above process may not work and we may need to look at *Section 128 “Refusal to Work”*.

We may also need to look at filing grievances or even mounting an internal Union Campaign or, if required, a public campaign to pressure the Employer to take action. Locals needing assistance have access to their Component representatives and/or the Regional Offices of the PSAC. Most regions have Regional Health and Safety Staff to provide help or advice.

Keeping Members Informed – Priority should be given to keeping the membership informed and knowledgeable about the issues. Direct mailing, e-mail, bulletin boards or workplace information sessions are some ways to keep the members aware of what the Local is doing on issues. The membership should be made aware of whom their Health & Safety Committee members or representatives are. Post a list of their names and contact numbers.

Post minutes of both the Local and the Joint Health & Safety Committee meetings. Identify and disseminate information on the local’s successes. Organize around issues that remain unresolved. If you have a membership that feels involved and informed, organizing becomes much easier.

Communications and Networking – The Local Union should look at ways of broadening their connections and contacts on issues related to health and safety. Some of this work can be the responsibility of the Local’s Health and Safety Committee referred to earlier. Some issues they can work on are:

- 1) Consulting with members when new equipment, technology, or work processes are introduced into the workplace. (This should be done prior to the issue being discussed at the Joint Workplace Health & Safety Committee)

- 2) Organizing health and safety meetings with other unions
- 3) Networking between Local Executives and worksite
- 4) Creating contacts with resource organizations (universities, colleges, injured workers groups, etc.)
- 5) Drafting Newsletters to identify problems and special interests

The Local Executive should:

- 1) Ensure you are communicating with isolated worksites
- 2) Affiliate with Labour Councils and Federations of Labour
- 3) Keep mailing lists current
- 4) Ensure members report back to the Local on any courses they attend
- 5) Create a position for a Health and Safety Executive member
- 6) Personalize information in Bulletins or Newsletters e.g. *“This is how it affects you”*
- 7) Pass information up the line – don’t sit on issues that may have impact on the “big picture”
- 8) Ensure easy access to information such as the Canada Labour Code Part II, Regulations, Treasury Board manuals and Collective Agreements.

Education and Training – The Local should identify all avenues whereby members, stewards, committee members and local executive officers can receive training on health and safety issues. There is no substitute for well-trained and informed local activists. Aside from determining the availability of training sessions in the workplace, through the PSAC, CLC or Federation of Labour, Locals can request special training sessions from the Union or the CLC. Consider bringing together a group from your local and other locals where appropriate, to have sufficient members for a local area training session. Training should be mandatory for Health and Safety Committee members.

Involve the Stewards Network – Health, safety and protecting our members is not the sole prerogative of Health and Safety Committee members. The Local's Stewards network needs to be involved, trained, and be an integral part of the team that members can identify with and look to for support. No one who is elected or appointed to represent our members should reply to a member's concern by saying: "it's not my job". Even if they cannot answer the question or are not familiar with the issues, they must be able to direct or bring the member to someone in the Local who can help.

Reporting Workplace Accidents and/or Injuries – Members need to be reminded on a regular basis to report all workplace accidents or injuries. This should include all incidents that occur, even if the incident is a near miss or a close call. In addition, the Joint Committee needs to be aware of each incident and the Union members on the Committee must ensure that the employer provides honest reporting on those incidents.

Investigating Accidents and/or Injuries – Ensure the Joint Health and Safety Committee is involved in accident/injury investigations. Not only should incidents that lead to injury be investigated, but accidents or incidents that can be classed as a "near miss" or "close call" should also be investigated. Having first hand knowledge and awareness of the situation, whether or not the situation led to an actual injury, can be crucial to the member and to preventing future accidents and/or injuries. *Section 135 (7) (e)* of the Canada Labour Code covers the rights of committees to participate in such investigations.

Special Committees – The Local Union may wish to consider, if resources permit, forming special committees on issues such as indoor air quality, contaminated sites, ergonomics, etc. Such committees should include a union member of the Joint Health & Safety Committee. Special Committees can assist the Local in developing strategies on how to deal with these and other issues.

Establishing Connections – Many Locals are fortunate to be in areas where Universities, Colleges and other venues may be available to tap into experts on various problems identified by the Local. For example, experts on ergonomics, air quality, asbestos and a host of other areas, may be as close as a phone call. In some cases costs may be involved, but sometimes, they will help the Local at no charge.

Keeping Records – Local files and records are extremely important, not only for the Locals, but when issues need to be passed up the line, records could win or lose the day. We can't forget that after something leaves the Local level, everyone else who deals with it, from then on, was not a party to the original event. As a result, the Local must be able to "paint a picture" so to speak, of what makes the issue an issue. There is never "too much" information in a file.

Spreading the Word – Informing the membership on health and safety matters is a direct investment in the magnitude of support the local will receive when “action” may be required. No one likes to be suddenly hit with a situation where they are being asked to take a specific action, if they have no prior information or knowledge about the issue. Most issues the Local may need to take action on are matters that the Local has worked on over a period of time. Bring the membership into the loop early and keep them apprised of your efforts. They will know what the Union has done and your chances of having them behind you to support further action will be much greater. Most importantly, ensure the members are aware of their rights such as their “Right to Know”, “Right to Participate” and “Right to refuse”.

Internal Resources – Locals have a number of internal resources at their disposal. When issues cannot be resolved locally or are such that assistance may be required at the outset, Locals can get help. Each PSAC Component employs one or more Service Officers who can be contacted for assistance. Each Regional Office of the PSAC has either a dedicated Health & Safety Representative or a Regional Representative who can work with you and the Component staff. Finally, the Component or Regional Office can request assistance from the National Office in the Programs Section of the PSAC. Locals are never alone if help is required.

Status Quo – Not Good Enough – History has taught us that we should never be satisfied with the *status quo*, especially when dealing with matters affecting the health and safety of workers. When Locals are involved in the areas mentioned to this point, they will have not only the ability but also the obligation, to make recommendations for improvements. Whether

these improvements are achieved in future changes to legislation and regulations or whether they come through tougher language in our Collective Agreements, changes will always be needed. Locals can be the engine for change and should take on that role with enthusiasm and pride.

Working Within Our Components

Seventeen Components represent the PSAC membership from coast to coast to coast. Each Component has Service Officers or staff who can offer assistance or advice to Local Health and Safety Committee members and local union officers.

PSAC Components provide resources in a number of ways:

Communicating and networking – Components are in a position to:

- Be the link between the locals and the PSAC at the Regional and National levels;
- Share information among other Components;
- Accumulate data on various issues such as sick building syndrome, contaminated sites, non compliance with the Code, etc.;
- Assist in disseminating information on health and safety matters to the Local Health and Safety Committee members.

Developing Solutions – PSAC Components can play a major role in developing solutions to problems. They can:

- Monitor Departmental Health and Safety Policies;
- Initiate information gathering processes to identify problems;

- Support Local Health and Safety Committees;
- Provide representation in difficult cases at local level meetings;
- Present resolutions on health and safety issues to Component conventions;
- Assist in developing bargaining demands around H&S
- Bring health and safety problems to Regional and National Conferences.

Working With Our Regions

The PSAC has 23 Regional Offices spread across 7 Regions in Canada. Their staffs work with Local officers and members in providing expertise and support on various issues. There are 5 Regional Representatives located across Canada with a specific health and safety mandate (Halifax – Quebec City – Gatineau – Toronto – Vancouver).

A Regional Executive Vice-President who also chairs their Regional Council represents each region.

Regional Councils are made up of regional activists who seek to bring the union closer to the members. They discuss union issues and provide a network for the members who can come together to listen and be heard. They learn about their rights, take collective actions, and shape the future of their union as well as their workplaces. They can also assist in raising their union's profile in the media, in our communities, in the labour movement, and at the workplace.

They play an important role in mobilizing the membership on health and safety issues. In fact, some Regional Councils have established Regional

Union Health and Safety Committees with a specific mandate that can include:

- Promotion of health and safety issues in their region
- Providing advise and seek to protect the rights of injured workers
- Providing health and safety education to the members
- Participate in planning regional health and safety events and activities

Resources – Many Regional Offices are able to provide a number of resources directly or can refer locals to resources such as:

- Health and Safety resource person at regional level;
- Research into health and safety problems;
- Advice to Components and Locals;
- List of health and safety experts who may be available for advice and referral;
- Information on current topics and issues in health and safety;
- Promotion of regional health and safety activities;
- Education and training;
- Joint Committee Training.

Communications and Networking – Regional Offices can assist in the process of:

- Keeping locals informed;
- Co-coordinating Regional Health and Safety Committees;

- Setting up a network list for health and safety issues;
- Coordinating, lobbying, petitions and demonstrations;
- Liaising with provincial labour organizations;
- Compiling updated mailing lists;
- Providing information on key workers compensation cases won or lost.

Developing Solutions – Regional Offices can assist in developing solutions to problems by:

- Supporting Locals in their efforts;
- Meeting with Health & Safety Committees to aid in developing strategies;
- Offering advice and guidance to members;
- Helping with language and representation on NJC grievances;
- Assisting with work refusals and Canada Labour Code Part II complaints;
- Assisting with workers' compensation claims;
- Working with Regional Councils.

Working With Our National Health and Safety Program

The National Health and Safety Program is coordinated through the Programs Section located at the PSAC Headquarters. The Program works to raise the profile of health and safety within the PSAC.

Resources – The National Office provides various resources such as:

- Provide advice to elected officers, PSAC and Component staff on occupational health and safety issues and concerns
- Materials and Educational Tools
- Co-coordinating National Health & Safety Conferences
- Tool Kits to assist locals in their work
- Maintaining lists of resources in National Office, Regions and Components
- Providing statistics on a national basis
- Conducting research on health & safety problems
- Developing policy papers on health & safety issues
- Providing updates and information on the development of Federal Regulations as well as policies of the NJC

Communication and Networking – The National Office attempts to:

- Keep members informed through bulletins, newsletters and articles in PSAC Publications
- Ensure media coverage on issues and events
- Participate with other Unions and the CLC on committees dealing with health, safety, the environment, workers compensation and rights of injured workers
- Work with Component Service Officers and PSAC Regional Representatives to ensure consistency in our work.

Developing Solutions – The National Office works with elected officers, PSAC and Component staff to develop solutions by:

- Providing advice, information and technical support
- Developing training materials
- Developing materials and tools for use by local health and safety activists
- Participating in the drafting of national legislation and regulations on health, safety, worker's compensation and the environment
- Taking strong union positions to NJC committees
- Participating in the drafting or review of service-wide employer policies when requested

Getting the help you need

Locals face many challenges in their daily attempts to protect the health and safety of the membership. Most times the problems that arise are dealt with and resolved at the local level. On other occasions assistance may be required and locals can get help in the following manner:

- The local should contact their Component
- The Component, depending on the issue, may decide to contact the closest PSAC Regional Office or have the local do so

- Depending on the issue, the Component or Regional Office may seek advice from the PSAC National Office.

Following these steps will ensure your Component and/or Regional Office is aware of the issue and does what ever is possible to find a solution.

Component Offices



Agriculture Union

 233 Gilmour St., 10th Floor
Ottawa ON K2P 0P1
 613 560-4306

Canada Employment & Immigration Union

 233 Gilmour St., 10th Floor
Ottawa ON K2P 0P1
 613 236-9634

Customs and Immigration Union

 1741 Woodward Ave.
Ottawa ON K2C 0P9
 613 723-8008


Government Services Union

 233 Gilmour St., 7th Floor
Ottawa ON K2P 0P1
 613 560-4395

National Health Union

 233 Gilmour St., 12th Floor
Ottawa ON K2P 0P1
 613 237-2732

Natural Resources Union

 233 Gilmour St., 6th Floor
Ottawa ON K2P 0P1
 613 560-4378

Nunavut Employees Union

 Box 869
Iqaluit NU X0A 0H0
 867 979-4209



Union of Canadian Transportation Employees

 233 Gilmour St., 7th Floor
Ottawa ON K2P 0P1
 613 238-4003



Union of Environment Workers

 2181 Thurston Drive
Ottawa ON K1G 6C9
 613 736-5533



Union of National Defence Employees

 116 Albert St., Suite 700
Ottawa ON K1P 5G3
 613 594-4505

Union of National Employees

 150 Isabelle St., 9th Floor
Ottawa ON K1S 1V7
 613 560-4301

Union of Northern Workers

 5112-52nd St., Suite 200
Yellowknife NWT X1A 3Z5
 867 873-5668

Union of Postal Communications Employees

 233 Gilmour St., 7th Floor
Ottawa ON K2P 0P1
 613 560-4342

Union of Solicitor General Employees

 233 Gilmour St., 6th Floor
Ottawa ON K2P 0P1
 613 232-4821



Union of Taxation Employees

 233 Gilmour St., 8th Floor
Ottawa ON K2P 0P1
 613 235-6704

Union of Veterans Affairs' Employees

 233 Gilmour St., 7th Floor
Ottawa ON K2P 0P1
 613 560-5460

Yukon Employees Union

 2285 2nd Ave., Suite 201
Whitehorse YK Y1A 1C9
 867 667-2331

Regional Offices

Ottawa Headquarters



233 Gilmour Street, Ottawa, ON K2P 0P1



(613) 560-4200



<http://www.psac-afpc.com>

Atlantic Region

- St. John's/Labrador, NF: (709) 726-6454
- Gander, NF/Labrador: (709) 651-3727
- Halifax, NS: (902) 443-3541
- Charlottetown, PE: (902) 892-5481
- Moncton, NB: (506) 857-4220

Québec Region

- Quebec City, QC: (418) 666-6500
- Montreal, QC: (514) 875-7100

National Capital Region

- Gatineau, QC: (819) 777-4647
- Ottawa, ON: (613) 560-2560

Ontario Region

- Kingston, ON: (613) 542-7322
- Toronto, ON: (416) 485-3558
- London, ON: (519) 659-1124
- Sudbury, ON: (705) 674-6907
- Thunder Bay, ON: (807) 345-8442

Prairie Region

- Winnipeg, MB: (204) 947-1601
- Saskatoon, SK: (306) 244-3033
- Regina, SK: (306) 757-3575
- Edmonton, AB: 1-800-814-3948 (Alberta/NT only)
or (780) 423-1290
- Calgary, AB: 1-800-461-8914 (Alberta/NT only)
or (403) 270-6555

British Columbia Region

- Vancouver, BC: (604) 430-5631
- Victoria, BC: (250) 953-1050

North Region

- Yellowknife, YT: (867) 873-5670
- Whitehorse, NT: (867) 667-2331
- Iqaluit, NU: (867) 979-7430

Working with Part II of the Canada Labour Code

The current Canada Labour Code, which was enacted in September, 2000, contained many improvements from the previous code. Below are listed subject matters dealt with in the Code and the sections where they can be found.

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Section 2

Accident Investigation Report Form

ACCIDENT INVESTIGATION REPORT

ACCIDENT INVESTIGATION REPORT



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Name of Injured Member:	
Employer:	
Component:	
Work Location:	
Address:	
Hours of Work:	
Classification of Injured Member:	
Date of Accident/Incident:	Time of Accident/Incident:
Injured Member's Address:	
Telephone No.:	
Injured Member's Supervisor:	
Accident/Incident Reported To:	
Date Accident/Incident Reported:	
Date and Time of Accident/Incident:	
Site (Physical Location) of Accident/Incident:	
Weather Conditions (If Applicable):	

Description of Accident/Incident Events:

Description of Injury:

Direct Cause of Injury:

Accident Causes (List all possible causes):

Accident Type:

Recommendations:

Equipment Involved in Accident/Incident:

Name of Witness(es):

Telephone No.

Was First Aid Given? Yes ?

 No ?

If Yes, Name of the Person Administering First Aid:

Name of Union Representative Investigating:

Name of Management Representative Investigating:

Union Representative's Signature:

Date of Report:

Note: Please ensure that both sides of this form are completed. If additional space is required to complete this report, number the pages and attach to the report.

Section 3

Accident Types

SLIPS & FALLS: – Slip or/and fall on icy or wet outdoor walking surfaces, or wet or slippery indoor walking surfaces

FALL TO LOWER LEVEL: – A fall from an overhead platform or other structure, such as scaffolding or an overhead storage area

MATERIAL HANDLING (LIFTING, PUSHING AND PULLING): – Different injuries that result from the manual handling of materials such as strains, sprains and other musculoskeletal injuries

STRUCK BY/STRUCK AGAINST: – Accidents that occur when a person is struck by different equipment such as mobile materials handling equipment, or through a combination of events, strikes against other equipment

CAUGHT ON/BETWEEN: – Accidents that occur when a person is caught on equipment or caught between parts of machinery or between different pieces of equipment

CONTACT (HOT/CHEMICAL/ELECTRICAL): – Coming into contact with hot elements or other heat sources, chemical exposures or contact with high voltage sources

EXPOSURE TO ELEMENTS: – Either short term exposure to extreme hot or cold temperatures, or long term exposure leading to heat or cold stress

BITES/SCRATCHES: – Accidental injuries resulting from contact with domestic dogs or other pets, or wild animals

EXPOSURE TO TOXIC GAS/FUMES: – Exposure to toxic gases or fumes that can lead to either acute or chronic effects

Section 4

Accident Investigation Process

As outlined in the PSAC Health and Safety Guide, the Joint Workplace Health and Safety Committee is to be involved in all investigations, and these will include accident/injury investigations, and similarly a Health and Safety Representative will be involved in all investigations, including accident/injury investigations.

The Co-chairs of the Workplace Committee will appoint the member or members of the Committee that shall participate in such investigations.

When involved in accident/injury investigations, an employee member of the Committee or a Health and Safety Representative should follow these steps and/or ensure that the following actions are followed:

1. **First Aid** – Make sure that appropriate medical attention is given.
2. **Control of the Accident Scene** – Erect barriers, shut down machinery, and follow established procedures.
3. **Witnesses** – Locate and identify witnesses and find out what happened.
4. **Planning** – Decide on a plan for the investigation, who will assist you, and the priorities for activity.
5. **Interviews** – Do the interviews as soon as possible in a place that is non-threatening for the interviewees.
6. **Physical Evidence** – Take photographs, draw block diagrams, and decide whether materials or equipment needs to be tested.
7. **Analysis** – Figure out what happened.
8. **Report** – Complete and present your report to the Joint Workplace Health and Safety Committee, to the Union, to all who helped in the investigation, and to the member who had the accident/injury.
9. **Recommendations** – Make recommendations and if immediate steps can be taken to improve conditions, push to have them initiated immediately.
10. **Follow-up** – Establish a timetable for the implementation of your recommendations through the Committee or with the Employer (in the case of a Representative) and push to make sure it is followed.



Section 5

Workplace Inspection Checklist

WORKPLACE INSPECTION CHECKLIST

WORKPLACE INSPECTION CHECKLIST



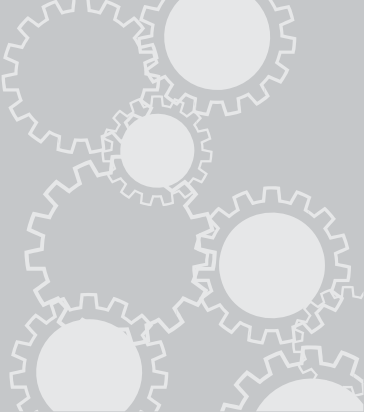
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CONDITION	O.K.	NOT O.K.
Walking (walkways, aisles) and Working Surfaces (clean, dry, orderly, unobstructed, carpet edges secured to floor, etc.)		
Elevators (operating license, use does not exceed capacity, emergency communication device operational)		
Exits (easy access, clearly marked, unobstructed and unlocked, etc.)		
Stairs/Stairways (proper handrails, slip/ice free, unobstructed, adequate illumination, etc.)		
Ventilation: General (temperature, humidity, air exchange rates, free of contamination sources, unobstructed intake/exhaust vents, etc.)		
Local Exhaust Ventilation (gas, vapours, fumes, dusts; adequate flow rates, testing/maintenance, etc.)		
Eyewash fountains, hand washing sinks, safety showers (availability, cleanliness, in working condition, etc.)		
Noise/Vibration (excessive noise/vibration, etc.)		
Hazardous Chemicals (identification, availability of MSDS's, proper labeling, proper storage and disposal procedures, etc.)		
First Aid (kits/supplies, qualified attendants, current certificates, emergency phone numbers, etc.)		

CONDITION	O.K.	NOT O.K.
Fire Protection Equipment (extinguishers, fire hoses, alarm stations – accessibility and testing, maintenance, accessibility of equipment, conspicuous identification – signage, etc.)		
Evacuation Procedures/Drills (posted fire/emergency evacuation plan, workers familiarity with the plan, regularly scheduled drills, designated emergency wardens, etc.)		
Machine Guarding and Other Safety Devices (adequate machine guarding, emergency stop devices, interlocks, etc.)		
Machinery (scheduled inspection and maintenance, possible pinch points, excessive forces required to operate machinery/equipment, etc.)		
Electrical Equipment (grounded, no frayed cords, etc.)		
Lockout Procedures (use of procedures during repairs and maintenance of equipment/machinery, etc.)		
Hygiene Facilities (condition of toilets, sinks, showers; availability of potable water, availability of clothing storage, etc.)		
Material Storage (stability, convenience and access, housekeeping, etc.)		
Office Furniture/Computer Workstation Furniture (adjustability of chair and keyboard heights, adequate lumbar support, etc.)		
Illumination/Lighting (adequate lighting for the type of work/task, glare, work areas, passageways, yards, etc.)		
Training (safe work procedures, safe use of hazardous chemicals, use of Personal Protective Equipment, safe lifting procedures, accessing confined spaces, etc.)		
Vehicles (condition, suitability for work required, operating procedures, maintenance records, etc.)		

CONDITION	O.K.	NOT O.K.
Warning and Signaling Devices (alarms, lights, horns, and other warning devices on equipment/vehicles)		
Workspace/Equipment Layout and Design (crowded working conditions, awkward work postures, etc.)		
Notice and Bulletin Boards (posting of workplace inspection reports, list of Health and Safety Committee members, minutes of Health and Safety Committee meetings, accessibility of bulletin boards)		

Personal Protective Equipment	AVAILABLE	NOT AVAILABLE
Footwear, gloves, eye wear, ear plugs/muffs, respirators/masks, etc.		
CONDITION	O.K.	NOT O.K.
Appropriate fit/selection, maintenance		



Section 6

Workplace Inspection Report Form

WORKPLACE INSPECTION REPORT FORM

WORKPLACE INSPECTION REPORT FORM



Public Service Alliance of Canada
Alliance de la Fonction publique du Canada

Component: _____

Employer: _____

Work Location: _____

Address: _____

Date: _____

Hours of Work/Shift: _____

Time Inspection Tour Commenced: _____ Time Inspection Tour Finished: _____

Committee Members/Union Representative:

AREA	COMMENTS	ACTION NEEDED



Section 7

Internal Complaint Resolution Process

HAZARD COMPLAINT REPORT FORM

HAZARD COMPLAINT REPORT FORM



Public Service Alliance of Canada
Alliance de la Fonction publique du Canada

DATE: _____

COMPONENT: _____

LOCAL: _____

EMPLOYER: _____

WORK LOCATION: _____

AREA OR DEPARTMENT: _____

HAZARD LOCATION: _____

TIME HAZARD OCCURRED/IDENTIFIED: _____

DESCRIPTION OF HAZARD COMPLAINT: _____

CORRECTIVE ACTION REQUESTED: _____

REPORTED TO (Name of Supervisor): _____

EMPLOYEE'S NAME: _____



Section 8

Internal Complaint Resolution Process

LEGISLATIVE CONTRAVENTION REPORT FORM

HAZARD COMPLAINT REPORT FORM



Public Service Alliance of Canada
Alliance de la Fonction publique du Canada

Describe Violation: _____

Location: _____

Date and time of Violation: _____

Employer: _____

Component: _____

Local: _____

Legislative Provision Violated: _____

Section of Code: _____

Regulation (clause): _____

Corrective Action Required: _____

Reported to (Supervisor): _____

Name of Complainant: _____



Section 9

Internal Complaint Resolution Process

HAZARD/LEGISLATIVE CONTRAVENTION INVESTIGATION REPORT FORM

HAZARD/LEGISLATIVE CONTRAVENTION INVESTIGATION REPORT FORM



(For Committee Member's Use during Internal Complaint Investigation Process – S. 127.1)

Description of Violation/Hazard: _____

Name of Complainant: _____

Name of Supervisor: _____

Names of Committee Members Investigating the Complaint: _____

Results of Investigation: _____

Recommendations: _____

Union Representative _____

Management Representative _____



COMPLAINT REGISTRATION

DO NOT USE FOR REFUSALS TO WORK IN CASE OF DANGER (refer to section 128 of the Code)

Canada Labour Code, Part II – Occupational Health and Safety
Non-smokers' Health Act
Hazardous Products Act

When Complete, **Submit to: HRSDC-Labour Program**

(aussi disponible en français)

SECTION A – INFORMATION ABOUT COMPLAINANT

<input type="checkbox"/> Mr. <input type="checkbox"/> Mrs.	Last Name:	First or Given Name:	Middle Initial:
<input type="checkbox"/> Ms.			
Mailing Address:		City and Province:	Postal Code:
Home Telephone No.: () -	Telephone No. for messages: () -	Fax No.: () -	
E-Mail address:	Your Job Title/Occupation:	Are you covered by a collective agreement? Yes <input type="checkbox"/> No <input type="checkbox"/>	
Union:		Representative Name:	

SECTION B – INFORMATION ABOUT YOUR EMPLOYER

Name of Employer, Company or Business:		Street Address and/or Employer's Mailing Address:	
City and Province:		Postal Code:	Telephone No.: () -
Fax No.: () -	E-mail address:		Type of Business:
Name of Supervisor:		Telephone No.: () -	Number of Employees:
Check one: Is there a work place Health and safety committee? Yes <input type="checkbox"/>	Name of Employer Health & Safety Co-Chair:		Telephone No. () -
Representative? Yes <input type="checkbox"/>	Name of Employee Health & Safety Co-Chair or Representative:		Telephone No. () -

SECTION C – INFORMATION ABOUT YOUR COMPLAINT

Complaint concerns: (check one)		
Canada Labour Code Part II <input type="checkbox"/>	Non-smokers' Health Act <input type="checkbox"/>	Hazardous Products Act <input type="checkbox"/>
Work Site Address (if different from above):		Location at work site:
Nature of Complaint:		
Continued on separate page YES <input type="checkbox"/>		

Was your complaint discussed with your supervisor? Yes No





Section 10 Report Form

RIGHT TO REFUSE UNSAFE WORK (S.128 / 129)

RIGHT TO REFUSE UNSAFE WORK (S. 128 /129)



Public Service Alliance of Canada
Alliance de la Fonction publique du Canada

DATE: _____ TIME: _____

COMPONENT: _____

LOCAL: _____

WORK LOCATION: _____

NAME OF SUPERVISOR: _____

ISSUE AND FACTS: _____

RESULT OF INITIAL INVESTIGATION: _____

JOINT INVESTIGATION _____

WORKPLACE COMMITTEE MEMBER/HEALTH AND SAFETY REPRESENTATIVE: _____

EMPLOYER REPRESENTATIVE: _____

RESULT OF JOINT INVESTIGATION _____

INVESTIGATION BY HRSDC HEALTH AND SAFETY OFFICER

NAME OF HRSDC HEALTH AND SAFETY OFFICER : _____

EMPLOYER REPRESENTATIVE(S): _____

WORKPLACE COMMITTEE MEMBER/HEALTH AND SAFETY REPRESENTATIVE: _____

HRSDC HEALTH AND SAFETY OFFICER'S DECISION: _____

RECOMMENDED ACTION (COMPONENT) : _____



REFUSAL TO WORK REGISTRATION ENREGISTREMENT D'UN REFUS DE TRAVAILLER

**Refusal to Work in case of danger - Registration of Notification under subsection 129(1) of Part II of the Canada Labour Code.
Enregistrement d'un avis de refus de travailler en cas de danger en vertu du para. 129(1) de la Partie II du Code canadien du travail.**

1. Complainant's name Nom du plaignant			
2. Address Adresse		3. Telephone (____) ____ - ____ Téléphone	
4. Occupation		5. Years of experience in present occupation Années d'expérience en cette occupation	
6. Employer's name Nom de l'employeur			
7. Address Adresse		8. Telephone (____) ____ - ____ Téléphone	
9. Type of operation Genre d'activité			
10. a) When was complaint discussed with employer? Quand la plainte a-t-elle été discutée avec l'employeur? Date _____			
b) With whom? Avec qui? _____		Title Titre _____	
c) Corrective measures taken? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, describe Mesures correctives prises? Oui Non Si oui, décrire			
11. a) Safety and Health Committee or Rep. Comité de sécurité et de santé ou rep. _____			
b) Co-Chair Pers. Employer Co-prés. employeur _____			
c) Co-Chair Pers. Employee Co-prés. employé(e) _____			
d) Safety and Health Representative Représentant à la sécurité et à la santé _____			
12. Statement of refusal to work Exposé du refus de travailler			

Employer's request Demande de l'employeur	Date/Time Date/Heure ____ : ____	Name -Nom	Signature
Employee's request Demande de l'employé(e)	Date/Time Date/Heure ____ : ____	Name -Nom	Signature

OFFICE USE ONLY - À L'USAGE EXCLUSIF DU BUREAU

Complaint No. N° de la plainte	File No. (Regional) Dossier N° (Régional)	File No. (NHQ) Dossier N° (A.C.)	Receiving Office Bureau qui a reçu la plainte
Forwarded to (Office) / Transmis à (Bureau)	Date	Complaint received by Plainte reçue par <input type="checkbox"/> Telephone <input type="checkbox"/> Interview <input type="checkbox"/> Other Téléphone Entrevue Autre	



Section 11

Joint Workplace Health and Safety Committees

STANDARDIZED MINUTES FORMAT

STANDARDIZED MINUTES FORMAT



Public Service Alliance of Canada
Alliance de la Fonction publique du Canada

EMPLOYER: _____

COMPONENT: _____

WORKPLACE: _____

ADDRESS: _____

DATE OF MEETING: _____

MEMBERS ATTENDING: _____

Union Representatives (Co-Chair) _____

Management Representatives _____

OBSERVERS: _____

Accidents Reported

Date of Accident	Work Location	Type of Accident

Internal Complaint Resolution Process – Complaints Received

Date of Complaint	Description of Complaint	Resolution of Complaint

Work Refusal Reports

Date of Refusal	Issue and Facts	Employers' Response	Health and Safety Officers' Decision

SIGNATURE OF CO-CHAIRS:

Union: _____

Management: _____

Section 12

Model Terms of Reference

Health and Safety Committees

Policy Committees and Workplace Committees

In this section, there can be found proposed draft terms of reference for both Policy and Workplace Committees.

These draft terms of reference should be considered guidelines only, and are to be amended to suit the individual Committee's needs.

Terms of Reference

Policy Health and Safety Committee

1. Policy Committee Membership

1.1 The Committee shall consist of the following members:

- Employer Co-Chair
- Employee Co-Chair
- Employer (Management) representatives
- Employee (Union) representatives

1.2 Once appointed to the Committee, representatives shall serve a membership term not exceeding two (2) years, which may be renewed at the end of each term.

2. Committee Meetings

2.1 The Committee shall meet at least four times during the calendar year, or as required due to emergency or special circumstances. Meetings shall be held during regular working hours.

2.2 All Committee meetings shall be held in a central location, unless otherwise agreed to by the Committee.

2.3 The role of the Chair shall alternate between the Co-Chairs.

2.4 Quorum for Committee meetings shall consist of a majority of the members of the Committee, of which at least half are employee representatives.

2.5 Observers to Committee meetings shall be invited to attend meetings based on consensus agreement between the Co-Chairs of the Committee.

3. Record Keeping

3.1 Items for the agenda for a Committee meeting will be submitted to the Co-Chairs at least ten (10) working days prior to the meeting and these items will be reviewed by the Co-Chairs and approved for addition to the agenda. Once the agenda has been approved, it will be distributed to the Committee members at least five (5) working days prior to the meeting with all supporting documentation provided.

- 3.2 It shall be the responsibility of the management Co-Chair to provide the secretarial resource to record the minutes of the meeting.
- 3.3 Draft minutes will be distributed, within ten (10) working days after the meeting, to all Committee members for their review and comments. Any comments or proposed amendments to the minutes must be provided to the Committee Co-Chairs within at least ten (10) working days. Once the draft minutes have been approved by the Co-Chairs, the final version of the minutes will be distributed to all members and alternates of the Committee, senior management of the Employer, all workplace Committees and shall be posted on all bulletin boards, including electronic medium.

4. Committee Costs

- 4.1 Travel, accommodation, per diem and all other related costs regarding attendance at Committee meetings by employee representatives shall be paid by the employer.
- 4.2 Preparatory time for employee representatives prior to Committee meetings shall be granted by the employer, and all costs associated with this shall be borne by the employer.

5. Alternates

- 5.1 Alternates will also be appointed to the Committee, for both the employer and employee representatives, and they shall replace regular members at meetings as required.

6. Amendments or Revisions

- 6.1 These terms of reference may be amended or revised by consensus of the Committee, and shall be reviewed every two (2) years.

Terms of Reference

Workplace Health and Safety Committee

1. Workplace Committee Membership

- 1.2 The Committee shall consist of the following members:

- Employer Co-Chair
- Employee Co-Chair
- Employer (Management) representatives
- Employee (Union) representatives

- 1.1 Once appointed to the Committee, representatives shall serve a membership term not exceeding two (2) years, which may be renewed at the end of each term.

2. Committee Meetings

- 2.1 The Committee shall meet at least nine times during the calendar year, or as required due to emergency or special circumstances. Meetings shall be held during regular working hours.

- 2.2 The role of the Chair shall alternate between the Co-Chairs.

- 2.3 Quorum for Committee meetings shall consist of a majority of the members of the Committee, of which at least half are employee representatives.

2.4 Observers to Committee meetings shall be invited to attend meetings based on consensus agreement between the Co-Chairs of the Committee.

3. Record Keeping

3.1 Items for the agenda for a Committee meeting will be submitted to the Co-Chairs at least ten (10) working days prior to the meeting and these items will be reviewed by the Co-Chairs and approved for addition to the agenda. Once the agenda has been approved, it will be distributed to the Committee members at least five (5) working days prior to the meeting with all supporting documentation provided.

3.2 It shall be the responsibility of the management Co-Chair to provide the secretarial resource to record the minutes of the meeting.

3.3 Draft minutes will be distributed, within ten (10) working days after the meeting, to all Committee members for their review and comments. Any comments or proposed amendments to the minutes must be provided to the Committee Co-Chairs within at least ten (10) working days. Once the draft minutes have been approved by the Co-Chairs, the final version of the minutes will be distributed to all members and alternates of the Committee, senior management of the Employer, and shall be posted on all bulletin boards, including electronic medium.

4. Committee Costs

4.1 Travel, accommodation, per diem and all related costs regarding attendance at Committee meetings by employee representatives shall be paid by the employer.

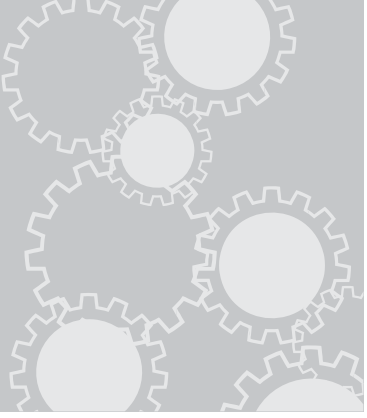
4.2 Preparatory time for employee representatives prior to Committee meetings shall be granted by the employer, and all costs associated with this shall be borne by the employer.

5. Alternates

5.1 Alternates will also be appointed to the Committee, for both the employer and employee representatives, and they shall replace regular members at meetings as required.

6. Amendments or Revisions

6.1 These terms of reference may be amended or revised by consensus of the Committee, and shall be reviewed every two (2) years.



Section 13

Health and Safety Committee/Representative

IDENTIFICATION FORM

HEALTH AND SAFETY COMMITTEE IDENTIFICATION FORM



Public Service Alliance of Canada
Alliance de la Fonction publique du Canada

POLICY HEALTH AND SAFETY COMMITTEE

EMPLOYER: _____

NAME OF COMMITTEE MEMBERS (EMPLOYEE REPRESENTATIVES):

Employee Co-Chair: _____

Component: _____

Mailing Address: _____

Phone Number: (_____) _____

Fax Number: (_____) _____

E-mail Address: _____

Committee Member: _____

Component: _____

Mailing Address: _____

Phone Number: (____) _____

Fax Number: (____) _____

E-mail Address: _____

Committee Member: _____

Component: _____

Mailing Address: _____

Phone Number: (____) _____

Fax Number: (____) _____

E-mail Address: _____

Committee Member: _____

Component: _____

Mailing Address: _____

Phone Number: (____) _____

Fax Number: (____) _____

E-mail Address: _____

Committee Member: _____

Component: _____

Mailing Address: _____

Phone Number: (_____) _____

Fax Number: (_____) _____

E-mail Address: _____

Committee Member: _____

Component: _____

Mailing Address: _____

Phone Number: (_____) _____

Fax Number: (_____) _____

E-mail Address: _____

HEALTH AND SAFETY COMMITTEE IDENTIFICATION FORM



Public Service Alliance of Canada
Alliance de la Fonction publique du Canada

WORKPLACE HEALTH AND SAFETY COMMITTEE

NAME OF COMMITTEE MEMBERS (EMPLOYEE REPRESENTATIVES):

Employee Co-Chair: _____

Mailing Address: _____

Phone Number: (_____) _____

Fax Number: (_____) _____

E-mail Address: _____

Committee Member: _____

Component: _____

Mailing Address: _____

Phone Number: (_____) _____

Fax Number: (_____) _____

E-mail Address: _____

Committee Member: _____

Component: _____

Mailing Address: _____

Phone Number: (_____) _____

Fax Number: (_____) _____

E-mail Address: _____

Committee Member: _____

Component: _____

Mailing Address: _____

Phone Number: (_____) _____

Fax Number: (_____) _____

E-mail Address: _____

Committee Member: _____

Component: _____

Mailing Address: _____

Phone Number: (_____) _____

Fax Number: (_____) _____

E-mail Address: _____

Committee Member: _____

Component: _____

Mailing Address: _____

Phone Number: (_____) _____

Fax Number: (_____) _____

E-mail Address: _____

HEALTH AND SAFETY COMMITTEE IDENTIFICATION FORM



Public Service Alliance of Canada
Alliance de la Fonction publique du Canada

HEALTH AND SAFETY REPRESENTATIVES

COMPONENT: _____

LOCAL: _____

NAMES OF HEALTH AND SAFETY REPRESENTATIVES:

Representative Mailing Address: _____

Phone Number: (_____) _____

Fax Number: (_____) _____

E-mail Address: _____

Workplace: _____

Representative Mailing Address: _____

Phone Number: (_____) _____

Fax Number: (_____) _____

E-mail Address: _____

Workplace: _____

Representative Mailing Address: _____

Phone Number: (_____) _____

Fax Number: (_____) _____

E-mail Address: _____

Workplace: _____

Representative Mailing Address: _____

Phone Number: (_____) _____

Fax Number: (_____) _____

E-mail Address: _____

Workplace: _____

Representative Mailing Address: _____

Phone Number: (_____) _____

Fax Number: (_____) _____

E-mail Address: _____

Workplace: _____



Section 14

Canada Labour Code Part II

(Occupational Health and Safety)

Please refer to the following link:

<http://lois-laws.justice.gc.ca/eng/acts/l-2>

Section 15

Overview of Provisions of Part II – Canada Labour Code

Public Service Alliance of Canada

Health and Safety

Overview of Provisions of Part II of the Canada Labour Code

This section will deal with key provisions that can be found in Part II of the Canada Labour Code. In describing some of these provisions, it is hoped that this section will assist PSAC health and safety committee members and health and safety representatives in their crucial role of representing workers and preventing occupational accidents and diseases.

The key components of the legislation are described below and many of them represent significant union gains in health and safety.

Definition of “Danger”

The definition of “danger” includes any *existing or potential hazard or condition* or *any current or future activity* that could reasonably be expected to cause injury or illness to a person.

Two key concepts are:

- “*potential hazard or condition*” and
- “*any current or future activity*”.

The amended provision of “*current or future activity*” as a potential source of danger is an important concept. This should have brought about a more liberal interpretation of what constitutes a “*danger*” in the workplace since the previous existing jurisprudence which had been used in determining what constituted “*danger*” should have been no longer valid as a guide for cases heard after the amendments to the definition of “*danger*”.

The addition of “*potential hazard or condition*” should also have had a positive impact as “*danger*” should have no longer been restricted to the concept of “**immediate or imminent danger**” which had always been an obstacle when exercising the right to refuse dangerous work. Unfortunately, Federal Health and Safety Officers had been interpreting the amended definition of “*danger*” as if there had been no changes, and were still applying the concept of “*immediate or imminent danger*” in work refusal cases.

However, the Federal Court of Appeal, in a PSAC case (Park Warden, D. Martin vs. Parks Canada), May 2005, reaffirmed that when conducting a “*danger*” analysis, the requirement of the analysis includes consideration of potential hazard as well as future activity. Since this decision, there have been recent developments of National Appeals Officers overturning the decisions of Health and Safety Officers and applying the definition of “*danger*” as the legislation contemplates.

The present definition still requires a reasonable expectation of an injury or illness before the hazard or condition can be corrected, or the activity altered (s.122(1)).

Preventive Measures – Hierarchy of Controls

Section 122(2) establishes the concept of “Hierarchy of Controls” when dealing with health and safety controls in the workplace.

From the workers’ point of view, not all workplace controls are equal. Those controls which focus on the source of the hazard – elimination, substitution or isolation of the hazard – are generally the most effective means of preventing and controlling worker exposure. Where possible, controls at the source should be a union priority.

The priorities of employers, however, usually work in reverse. Management frequently believes it is cheaper or easier to control workers rather than control the hazard at the source. In dealing with management, the union strategy should be to try wherever possible to achieve controls from the top of the hierarchy.

Control at the source ----- Union Priority

- elimination of the hazard
- substitution of less dangerous material
- process redesign
- isolation or total enclosure

Control along the path

- local ventilation
- special methods
- better housekeeping
- general ventilation

Control at the worker ----- Management Priority

- personal protective equipment
- administrative controls
- rotating workers in a dangerous job
- medical monitoring

Establishment of Mandatory Policy Health and Safety Committees

Under section 134.1 of the *Code*, every employer who normally employs directly 300 workers or more is required to establish a policy health and safety committee. The purpose of the policy committee is to ensure that health and safety issues are addressed at the corporate level. This is the focal point of the federal jurisdiction’s approach to the internal responsibility system and a commitment to joint decision making. These committees can be very powerful since their decisions and actions could have a considerable impact in their respective workplaces.

The policy health and safety committee has a number of duties, including the following:

- to participate in the development of health and safety policies and programs (s.134.1(4)(a));
- to consider and expeditiously dispose of matters concerning health and safety raised by members or referred to it by a workplace committee or a health and safety representative (s.134.1(4)(b));

- to participate in the development and monitoring of a prevention program that also provides for the education of workers in health and safety matters (s.134.1(4)(c));
- to monitor data on work accidents, injuries and health hazards (s.134.1(4)(g));
- to participate in the planning of the implementation and in the implementation of changes that might affect occupational health and safety (s.134.1(4)(h)).

The policy committee also has certain powers, such as requesting from an employer any information it considers necessary to identify existing or potential hazards with respect to materials, processes, equipment or activities in any of the employer's workplaces (s.134.1(5)); and having full access to all government and employer reports, studies and tests relating to the health and safety of workers in the workplace; however, access to medical records will require the person's consent (s.134.1(6)).

The policy committee meets during regular working hours at least quarterly (four times every year) and, if other meetings are required as a result of an emergency or other special circumstances, the committee will meet as required during regular working hours or outside those hours (s.134.1(7)).

Powers and Functions: Workplace Health & Safety Committees and Representatives

The duties of a workplace health and safety committee and health and safety representative include, for example, the following:

- to participate in the implementation and monitoring of a program for the prevention of

hazards in the workplace that also provides for the education of workers in health and safety matters (s.135(7)(c));

- to assist the employer in investigating and assessing the exposure of workers to hazardous substances (s.135(7)(j));
- to inspect each month all or part of the workplace, so that it is inspected in its entirety at least once each year (s.135(7)(k)).

The provisions relating to health and safety representatives *require* that a representative *be* appointed in each workplace at which fewer than 20 workers are normally employed or for which an employer is not required to establish a workplace health and safety committee (s.136(1)).

A workplace committee or health and safety representative may request from an employer in respect of the workplace any information that the committee or representative considers necessary to identify existing or potential hazards with respect to materials, processes, equipment or activities (s.135(8) and s.136(6)).

Common Provisions: Policy Committees & Workplace Committees

In regards to the selection and appointment process of committee members, of major importance is the fact that members are to be selected by their union, in consultation with any workers who are not represented by any union (s.135.1(1)). Once the Union has made this selection, then the members selected by the Union are to be appointed to the respective Committee by the employer.

Of special interest is section 135.1(2) which states that the members of a policy committee may include persons who are not workers. This allows for, with the agreement of the parties, union officials who are not workers to be appointed as committee members. This provision is primarily aimed at policy committees where their expertise could be an asset.

If the union fails to select a person to sit on the committee, a health and safety officer will notify in writing the local branch of the union, and will send a copy of the notification to the union's national headquarters and to the employer, indicating that the committee is not established until a person is selected (s.135.1(4)).

If no person is selected, **the employer will perform the functions of the committee** until a person is selected and the committee is established (s.135.1(5)).

The members of the committee are **entitled to take the time required**, during their regular working hours, to attend meetings or to perform any of their other functions, **to prepare for the next meeting and for travel**. Authorization by both chairpersons of the committee is required (s.135.1(10)).

Committee members are to be compensated by the employer for their many functions, **whether performed during or outside the member's regular working hours** (s.135.1(11)).

Although listed under the specific duties of the employer, the employer must ensure the availability in the workplace of premises, equipment and personnel necessary for the operation of the policy and workplace committees (s.125(1)(z.07)).

Specific Duties of Employer

The specific duties of the employer are not restricted to workplaces controlled by the employer. They also apply to every work activity carried out by a worker in a workplace that is not controlled by the employer, to the extent that the employer controls the activity. Activities performed outside of the workplace and third party premises are now covered by (s.125(1)).

The Duties of the Employer include, among others, the following: (*note: the word "prescribed" means prescribed by regulation or determined in accordance with rules prescribed by regulation.*)

- make readily available to workers for examination, in printed or electronic form, a copy of the regulations (s.125(1)(e));
- to ensure that the workplace, work spaces, procedures as well as machinery, equipment and tools used by the workers meet prescribed ergonomic standards (s.125(1)(t) and s.125(1)(u));
- to ensure that members of policy and workplace committees and health and safety representatives receive the prescribed training in health and safety (s.125(1)(z.01));
- to respond as soon as possible to reports made by the workers (s.125(1)(z.02));
- to ensure the availability in the workplace of premises, equipment and personnel necessary for the operation of the policy and workplace committees (s.125(1)(z.07));
- to cooperate with the policy and workplace committees in the execution of their duties (s.125(1)(z.08));

- to develop health and safety policies and programs in consultation with the committee (s.125(1)(z.09));
- to respond in writing to recommendations made by committees within thirty days after receiving them, indicating what action, if any, will be taken and when it will be taken (s.125(1)(z.10));
- to provide to the committee a copy of any report on hazards in the workplace, including an assessment of those hazards (s.125(1)(z.11));
- to ensure that the committee inspects each month all or part of the workplace, so that every part is inspected at least once each year (s.125(1)(z.12));
- to investigate and assess worker exposure to hazardous substances in the manner prescribed, with the assistance of the committee (s.125.1(f)).

New Canada Occupational Health and Safety Regulations

Since many of the specific duties of the employer refer to prescribed standards, new regulations are being developed which will specify the legal requirements of employers on those standards.

For example, section 125(1)(z.03) and section 125(1)(z.04) call for a new prevention program regulation. The purpose of the regulation will be to establish a process for workplace parties in dealing with health and safety hazards before an injury or illness occurs. **An education program within the prevention program regulation will also address specific training needs.** The regulation is already being drafted with the full participation of the PSAC.

In response to the growing problem of workplace violence, section 125(1)(z.16) was added and requires the employer to take the necessary prescribed steps to prevent and protect against violence in the workplace. A new regulation is being drafted with the full participation of the PSAC.

Since sections 125(1)(t) and (u) refer to prescribed ergonomic standards which will allow us to deal with ergonomic issues in the workplace, we will need to develop a new ergonomic regulation for the federal jurisdiction. We will continue to pressure the government to start working on this new regulation.

There is also an obvious need to update the current *Safety and Health Committees and Representatives Regulations*. We will also pressure the government to start reviewing this existing regulation.

New Duty for Workers

Under section 126(1)(j), every worker must report to the employer any situation that he/she believes to be a contravention of Part II of the *Code* by the employer, another worker or any other person. The employer is required to respond (see s.125(1)(z.02)) and a health and safety officer should intervene if a worker complains that the employer is not responding. Clearly worker complaints must be responded to and, more importantly, acted upon.

Creation of an Internal Complaint Resolution Process

An innovative internal complaint resolution process is established in section 127.1 by which the parties can address and attempt to resolve their workplace health and safety problems.

This internal occupational health and safety complaint resolution process will have to be used before other recourses available under Part II of the Code, except for the right to refuse dangerous work and the right of pregnant or nursing workers to temporarily withdraw from dangerous work. The process will include the following main steps:

Step 1: A worker who believes on reasonable grounds that there has been a contravention to the Code or that there is likely to be an accident or injury to health makes a complaint to the supervisor (s.127.1(1));

Step 2: The worker and the supervisor must attempt to resolve the complaint between themselves as soon as possible (s.127.1(2));

Step 3: Referral of an unresolved complaint on the initiative of either of them to a chairperson of the workplace committee to be investigated jointly (s.127.1(3));

Step 4: The persons who investigate the complaint must inform the worker and the employer in writing of the results of the investigation (s.127.1(4));

Step 5: The persons who investigate the complaint may make recommendations to the employer with respect to the situation that gave rise to the complaint, whether or not they conclude that the complaint is justified (s.127.1(5));

Step 6: If the complaint is found to be justified, the employer must in writing and without delay inform the persons who investigated of how and when it will resolve the matter and must take appropriate action (s.127.1(6));

Step 7: If the persons who investigate the complaint conclude that a danger exists, **the employer must**

ensure that no worker is exposed to that danger until the situation is rectified (s.127.1(7));

Step 8: The worker or employer may refer a complaint to a health and safety officer in the following circumstances (s.127.1(8)):

- (a) the employer does not agree with the results of the investigation;
- (b) the employer has failed to take action to resolve the matter or to inform the persons who investigated the complaint of how and when it intends to proceed; or
- (c) the persons who investigated the complaint do not agree as to whether the complaint is justified.

Step 9: The health and safety officer must investigate the complaint (s.127.1(9));

Step 10: After the investigation, the health and safety officer (s.127.1(10)):

- (a) can issue directions to an employer or worker;
- (b) can recommend that the employer and worker resolve the matter between themselves; or
- (c) if the officer concludes that a danger exists, he/she must issue directions.

Right to Refuse Dangerous Work

A number of changes were made to section 128 which deals with the right to refuse dangerous work.

You can still refuse to work if you have reasonable cause to believe that something constitutes a danger to yourself or another worker or if a condition exists that constitutes a danger to yourself (s.128(1)(a) and

(b)). You can now refuse to work if you have reasonable cause to believe that **the performance of the activity by a worker constitutes a danger to yourself or to another worker** (s.128(1)(c)).

Refusals to work are still not permitted in certain dangerous circumstances. Those circumstances include when the refusal to work puts the life, health or safety of another person directly in danger (s.128(2)(a)); or when the danger is a normal condition of employment (s.128(2)(b)). The concept of certain tasks being inherently dangerous has long been a union concern. This concept will need to be redefined in light of the new definition of “*danger*”.

If you have a collective agreement which includes right to refuse language, you have to choose which process you are electing to follow before you exercise your right to refuse dangerous work. Therefore, when a worker reports to the employer that he/she refuses to perform dangerous work, the worker has to inform the employer whether he/she intends to exercise recourse under an applicable collective agreement or Part II of the *Code*. The selection of recourse is irrevocable unless the employer and worker agree otherwise (s.128(7)).

A worker also has the right to select a person from the workplace to be present during an investigation by the employer when a union member of the workplace committee or the health and safety representative is not available (s.128(10)).

Wages and benefits

Workers affected by a stoppage of work arising from the internal complaint resolution process, the right to refuse or a direction of a health and safety officer to an employer **are presumed to be at work**

until work resumes or until the end of their shift. The same applies to workers who are due to work on the next scheduled work period or shift, unless they have been given at least one hour’s notice not to attend work (s.128.1(1) and (2)). An employer may assign reasonable alternative work to workers who are deemed to be at work (s.128.1(3)).

Workers who are paid wages or benefits under these provisions may be required by the employer to repay those if it is determined, after all avenues of redress have been exhausted by the workers who exercised the right to refuse, that they exercised these rights **knowing that no circumstances warranted such action**. The burden of proof is clearly on the employer to show that the workers knew that there was **no reasonable cause to believe** that a hazard constituted a danger (s.128.1(4)).

To exercise the right to refuse dangerous work, one must comply with the following procedure:

Step 1: Report without delay the refusal to the employer (s.128(6));

Step 2: Selection of a remedy: the collective agreement or Part II of the *Code* (s.128(7));

Step 3: If the employer agrees that a danger exists, the employer must take immediate corrective action and inform the committee (s.128(8));

Step 4: If the matter is not resolved, report the continued refusal to the employer and to the committee (s.128(9));

Step 5: Immediate investigation by the employer in the presence of the worker and of the union representative on the committee (s.128(10));

Step 6: If still unresolved, report the continued refusal to the health and safety officer (HRSDC-Labour) (s.128(13)).

Note: the employer must inform the committee of any steps taken to protect workers from the danger (s.128(14)).

Investigation by the HRSDC-Labour Health and Safety Officer

Once the HRSDC-Labour health and safety officer is notified of the continued refusal to work, the following procedure must be followed:

Step 1: On being notified that the worker continues to refuse to work, the health and safety officer must investigate the matter in the presence of the employer, the worker and, in most cases, a union member of the workplace health and safety committee (s.129(1));

Step 2: On completion of the investigation, the health and safety officer must immediately give written notification of the decision on whether the danger exists (s.129(4));

Step 3: Before the investigation and decision of the health and safety officer, the worker may be asked to remain at a safe location nearby or be assigned reasonable alternative work (s.129(5));

Step 4: If the health and safety officer decides that the danger exists, a directions must be issued and the worker may continue to refuse until the directions are complied with (s.129(6));

Step 5: If the health and safety officer decides that the danger does not exist, no continued refusal is allowed

but the worker, or a person designated by the worker, can appeal the decision to an appeals officer **within ten days** (s.129(7)).

Pregnant and Nursing Workers

In addition to having the right to refuse dangerous work under Part II of the Code, a worker who is pregnant or nursing can cease, for a very short period, to perform her job **with full pay and benefits** if she believes that continuing any of her current job functions could pose a risk to her health or that of the foetus or child (s.132(1)).

The worker must consult with a qualified medical practitioner of her choice as soon as possible to establish whether there is such a risk (s.132(2)).

When a decision is made as to whether there is a risk or not, the worker can no longer cease to perform her job under these provisions (s.132(3)).

The employer can, in consultation with the worker, reassign her to another job that would not pose a risk to her health or to that of the foetus or child (s.132(4)).

During the period she ceases to perform her job under these provisions, the worker is considered to continue to hold the job and continues to receive the same wages and benefits, whether or not she has been reassigned to another job that does not pose the risk mentioned above (s.132(5)).

This section is only designed to cover a very short period extending from the moment when a pregnant or nursing worker believes she could be exposed to a dangerous workplace hazard and stops as soon as a medical certificate is issued by a qualified medical practitioner of her choice.

Coverage is then provided under sections 204, 205, 205.1 and 205.2 of the *Canada Labour Code, Part III* or the Treasury Board Policy, Chapter 13, Maternity-related Reassignment or Leave. The coverage provided under Part III of the *Code* and the Treasury Board Policy is limited to a right to job modification or reassignment to a safer job. If it is impossible to modify the job or reassign the pregnant or nursing worker, **leave without pay** is available.

The PSAC continues to pressure for improved protection for pregnant and nursing workers. There is still no commitment from the federal government in establishing a complete maternity protection regime similar to the one in Québec.

Complaint to the Board – Employer Action against Workers

Section 133 deals with worker complaints to the Canada Industrial Relations Board or the Public Service Staff Relations Board against an employer who has imposed disciplinary action on a worker after he/she exercised **any** right under the *Code*. The use of the protection awarded by this section is no longer restricted to the right to refuse or the investigation by the health and safety officer (s.128 or s.129).

In addition to the worker, any person designated by the worker can now file the complaint to the Board (s.133(1)). This will allow a union representative to file the complaint to the Board on behalf of the worker.

Section 133(6) clearly states that the **burden of proof** is imposed on the employer to satisfy the Board that its reasons for taking a particular action had nothing to do with the workers exercising their rights under the *Code*.

This section of the *Code* should be read in conjunction with section 147 (Disciplinary Action).

Health and Safety Officers

The new *Code* significantly enhances the powers of the HRSDC-Labour health and safety officers.

They include, among others, the following:

- to take or remove, for testing, material or equipment if there is no reasonable alternative to doing so (s.141(1)(b));
- to direct any person not to disturb any place or thing for a reasonable period pending an examination, test, inquiry, investigation or inspection (s.141(1)(g));
- to direct the employer or a worker or a person designated by either of them to accompany the officer while the officer is in the workplace (s.141(1)(j)); and
- to meet with any person in private or, at the request of the person, in the presence of the person's legal counsel or union representative (s.141(1)(k)).

A health and safety officer can now issue a direction whether or not the officer is in the workplace at the time the direction is issued (s.141(2)).

A clear duty by the health and safety officer to investigate every death of a worker has been included in the *Code* (s.141(4)).

To ensure better communications, there is also a requirement on the health and safety officer to provide

the employer and the workplace committee with a copy of the report within ten days after completing a written report on the findings of an inquiry or investigation (s.141(6)).

Inspections by the Health and Safety Officer

A union member and an employer member of the workplace committee must accompany the health and safety officer when conducting an inspection of the workplace (s.141.1(1)(a)).

The inspection can proceed in their absence if they choose not to be present (s.141.1(2)).

General Matters

No person can prevent a worker from providing information to an appeals officer or a health and safety officer (s.143.1).

No person can enter a workplace that is situated in a worker's residence without the worker's permission (s.143.2). This was done to protect the private dwelling of workers who choose to **telework** from their home.

Special Safety Measures

The power of the health and safety officer to issue a direction to terminate any ongoing contravention to any provision of the *Code* is still provided under section 145(1), and now includes **recent contraventions** also. This should address the problem expressed by many workers that the health and safety officer had to be present to witness the contravention for a direction to be issued.

In addition, a direction can be issued to take steps to ensure that the contravention does not continue or reoccur (s.145(1)(b)).

Appeals of Decisions and Directions

The regional safety officer is replaced by an appeals officer.

An employer, worker or union that feels aggrieved by a direction issued by a health and safety officer can appeal the direction in writing to an appeals officer within **thirty days** after the date of the direction being issued or confirmed in writing (s.146(1)). This is a significant increase of the previous time limit which was fourteen days.

The powers of the appeals officer have also been increased to not only vary, rescind or confirm the decision or direction but also to issue any direction that the appeals officer considers appropriate (s.146.1(1)).

Extensive additional powers and duties have been awarded to the appeals officer and they include, amongst others, the following:

- summon the attendance of witnesses and compel them to provide evidence under oath and to produce any documents and things that the officer considers necessary to decide the matter (s.146.2(a));
- examine records and make inquiries as the officer considers necessary (s.146.2(d));
- make a party to the proceeding, at any stage of the proceeding, any person who, or any group that, in the officer's opinion has substantially the same interest as one of the parties and could be affected by the decision (s.146.2(g));
- determine the procedure to be followed, while giving an opportunity to the parties to present

- evidence and make submissions (s.146.2(h));
- decide any matter without holding an oral hearing (s.146.2(i));
- order the use of a means of telecommunication that permits the parties and the officer to communicate with each other simultaneously (s.146.2(j)).

According to the *Code*, an **appeals officer's decision is final and cannot be questioned or reviewed in any court** (s.146.3). No order can be made, process entered or proceeding taken in any court to question, review, prohibit or restrain an appeals officer in any proceeding under the *Code* (s.146.4).

Both employers and labour representatives expressed serious concerns on the interpretation of this section. While we believe that, regardless of what is stated in this section, the Federal Court has jurisdiction, the appearance of total protection is disturbing and the Federal Court avenue may not be apparent to all who feel the appeals officer made an error.

PSLRB and CIRB

The appeals officer decision can no longer be appealed to the PSLRB or the CIRB. The only exceptions are complaints made under section 133 and 147 (Complaints When Action against Employees and Disciplinary Action).

Loss of wages when attending a proceeding

Finally, any worker who is a party to a proceeding, who attends at the proceeding, or who has been summoned by an appeals officer to attend, is **entitled to be paid by the employer** at the worker's regular rate of wages for the time spent at the proceeding that would otherwise have been time at work (s.146.5). In other words, if

you would have been working during the proceedings, then you should be paid by the employer.

Appeal Process – Background Information

Originally, both employers and workers agreed that there should be a two-tier system for appeals in all cases, including discipline cases and appeals against health and safety officers' directions. The first tier would be to the Appeals Officer and the second to the Canada Industrial Relations Board (CIRB). This procedure would allow easily resolvable issues to be dealt with at the first level, without the quasi-judicial procedure of the CIRB. The latter is necessary, however, so that all issues can be dealt with impartially and effectively, by a body external to HRSDC-Labour. We envisaged a CIRB procedure similar to that laid down in the revised Part I of the *Code*: cases would be handled by a CIRB member with two part-time Board members to hear cases or a series of cases in health and safety.

The government rejected this procedure in favour of a single appeal to an Appeals Officer within HRSDC-Labour.

Even then, the government has not done what it said that it would do. In a letter to labour and business from the then Assistant Deputy Minister (ADM) Nicole Sénécal dated July 12 1996, she stated that it was the government's intention to "*move the Appeals Officer function to a reformed CLRB as soon as that proves appropriate*". The CLRB (now the CIRB) has been reformed as a result of the revised Part I of the *Code*, but Part II has not caught up with the new reality. Without an external appeal mechanism HRSDC-Labour will be reviewing its own decisions. This violates the principle of natural justice. Fairness dictates that there should always be an external, independent review of an administrative decision.

In addition, some public service workers must currently submit their appeals to the PSSRB which has no particular expertise in health and safety matters. The appeal process should be made consistent in its application so that federal employers and workers are treated efficiently and uniformly by a Board with broad experience in health and safety matters.

What went forward in Bill C-12 is an appeal process which we believe is flawed and we hope there will be an opportunity to revisit this process in the very near future. The Minister of Labour did commit to revisit the appeal process as soon as possible and discussions with HRSDC-Labour officials on this matter are still ongoing.

Disciplinary Action

The general prohibition section has also been amended. The section still says that no employer can dismiss, suspend, lay-off or demote a worker, impose a financial or other penalty on a worker, or refuse to pay a worker remuneration in respect of any period of time that the worker would, but for the exercise of the worker's rights under the **Code**, have worked (s.147).

The section protects from any disciplinary action the employer might take against a worker or threaten to take any such action against a worker who has provided information to a person engaged in the performance of duties under the *Code* regarding the conditions of work affecting the health or safety of the worker or **any other worker** (s.147(b)).

It also awards the same protection to a worker who has acted in accordance with the *Code* or has sought the enforcement of any of the provisions of the *Code* (s.147(c)).

In addition to being a prohibition enforceable through

the courts, a complaint can be made to the CIRB or the PSSRB by the worker or somebody acting on behalf of the worker. The Boards can hear the complaint under their own rules of procedure. It is important to note that the complaint can be made with respect to any prohibited action, especially in light of section 147(c). **It is not limited to issues related to a worker's right to refuse dangerous work.**

The **burden of proof** imposed on the employer is further stated in section 147.1(1). An employer can, after all the investigations and appeals have been exhausted by the worker who has exercised rights under sections 128 and 129, take disciplinary action against the worker who the employer can demonstrate has **willfully abused** those rights. It further clarifies the legal requirement previously stated in section 133(6) of the *Code*.

Offences and Punishment

Fines and penalties have been significantly increased with a maximum fine of \$1,000,000 for offences resulting or likely to result in the death of, or serious illness or injury to a worker. Also included in the amendments is an imprisonment sentence for a maximum term of two years for some specific offences (s.148).

This change could have a serious impact on employers in the event of a prosecution. In the past, prosecutions have usually been filed following a fatality or serious, near fatal, injury. Given the increase in maximum penalties, the courts are likely to substantially increase fines when imposed.

Regulations under the Canada Labour Code, Part II

There are presently 19 regulations respecting occupational health and safety made under the

Canada Labour Code, Part II. These Regulations go through a regular cycle of review and amendment, so you should consult with the HRSDC-Labour regional office nearest you to ensure that you have the most current version of the regulations.

Here is the most current list we had as of April 2006:

- Part I: Interpretation
- Part II: Building Safety
- Part III: Temporary Structures and Excavations
- Part IV: Elevating Devices
- Part V: Boilers and Pressure Vessels
- Part VI: Lighting
- Part VII: Levels of Sound
- Part VIII: Electrical Safety
- Part IX: Sanitation
- Part X: Hazardous Substances
- Part XI: Confined Spaces
- Part XII: Safety Materials, Equipment, Devices and Clothing
- Part XIII: Tools and Machinery
- Part XIV: Materials Handling
- Part XV: Hazardous Occurrence Investigation, Recording and Reporting
- Part XVI: First Aid
- Part XVII: Safe Occupancy of the Work Place
- Part XVIII: Diving Operations
- Part XIX: Hazard Prevention Program (includes ergonomics)
- Part XX: Violence Prevention in the Work Place

In addition to this list, there are the **Safety and Health Committees and Representatives Regulations**, which are also in the process of being amended.

Conclusion

The main purpose of the *Canada Labour Code, Part II* is to prevent accidents and injury to health arising out of, linked with or occurring in the course of employment.

This legislation is the minimum standard of protection awarded to all federal jurisdiction workers. Knowledge and understanding of worker rights are key to fully exercising them. This protection can and must be further enhanced in collective agreements through the collective bargaining process.

The most important tool for exercising worker rights is the Policy and Workplace Health and Safety Committees. Union involvement on these committees will have a direct impact on the health and safety of all workers.



Section 16

Canada Occupational Health and Safety Regulations

Please refer to the following link:

<http://lois-laws.justice.gc.ca/eng/regulations/SOR-86-304/index.html>



Section 17

Safety and Health Committees and Representatives Regulations

Please refer to the following link:

<http://lois-laws.justice.gc.ca/eng/regulations/SOR-86-305/index.html>

