



# Occupational Health and Safety Employer Guide **2023**

**WorkplaceNL**  
Health | Safety | Compensation



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# Introduction



## The Internal Responsibility System

Rights and Responsibilities  
in the Workplace



The purpose of this guide is to help you understand Newfoundland and Labrador's occupational health and safety (OHS) legislation and your role as an employer in ensuring health and safety at the workplace. This guide introduces what you need to do to comply with legislation and make your workplace a healthier and safer place.

## The goal – health and safety

The internal responsibility system is a foundational principle of OHS legislation. Its core premise is that everyone, including employers and workers, is accountable for workplace health and safety.

- The internal responsibility system is the foundation of Newfoundland and Labrador's OHS legislation.
- It is the employer's responsibility to protect the health and safety of their workers.
- Fundamental employer responsibilities include: OHS Committees, Worker Health and Safety (WHS) Representatives or Designates, health and safety programs, and hazard assessments.
- Provincial OHS officers have the authority to enforce OHS legislation.

## The OHS Act and Regulations

The Government of Newfoundland and Labrador's OHS Act is an important piece of legislation that affects you. It outlines your responsibilities as an employer, as well as the rights and responsibilities of others working at or involved with the workplace. The OHS Act sets minimum standards to protect and promote the health and safety of workers throughout the province. OHS legislation also includes regulations made under the OHS Act.

These regulations set specific rules and work together with the OHS Act.

The OHS Act and Regulations apply to most workers and employers in Newfoundland and Labrador, unless you are under federal jurisdiction (for example, Canadian chartered banks, interprovincial transportation companies, television and radio broadcasters). You are an employer if you employ one or more workers.

An employer, along with other workplace parties, have OHS responsibilities. Sections 4 to 11 of the OHS Act defines the roles and responsibilities of each workplace party, including employers, supervisors, workers, self-employed persons, principal contractors and suppliers. While each workplace party may have a different role, health and safety is a shared responsibility.



The OHS Act and Regulations provide rules to help keep your workplace healthy and safe.

The OHS Act gives the Provincial Government authority to make regulations and codes (or rules) about health and safety in the workplace.

The Regulations address requirements related to general administrative matters and broad health and safety rules.

## Role of OHS Division

The OHS Division administers and enforces the Government of Newfoundland and Labrador's OHS legislation. The primary goal of the OHS Division is accident and illness prevention.

OHS recognizes that all workers have a fundamental right to a workplace that protects their health and safety. This is achieved by working with stakeholders to establish, promote and enforce workplace practices, standards and procedures.

**If you have questions related to OHS legislation or workplace health and safety, contact OHS Division 1.800.563.5471.**

## OHS Officers

OHS Officers conduct inspections and investigations to enforce OHS legislation.

OHS Officers are authorized to:

- Enter your workplace.
- Look at and copy relevant documents.
- Require you or others to provide reasonable assistance or produce information.
- Inspect or take samples of any machinery, equipment, appliance or product being produced.
- Bring along any equipment, materials or persons with expert knowledge to assist the officer.
- Conduct tests, take pictures and measurements, or complete recordings.



- Require you or your designate to demonstrate use of machinery, equipment, appliance or product.
- Interview and take statements from any person at the workplace or others who are not present at the workplace.

If an Officer believes a workplace is unhealthy or unsafe, they can issue stop-use, or stop-work orders.

## Role of WorkplaceNL

The role of WorkplaceNL is to administer the Workplace Health, Safety and Compensation Act, and to:

- Promote workplace health and safety in order to prevent and reduce workplace injury and illness.
- Strive to ensure injured workers receive the best care possible and the benefits to which they are entitled.
- Facilitate recovery and early and safe return to work for injured workers.
- Administer an employer classification and assessment system.

## Role of the Employer

The OHS Act states that as an employer, you must do everything you reasonably can to:

- Ensure the health, safety and welfare of workers and those not in your employ.
- Maintain a healthy and safe workplace, systems, equipment and tools.
- Provide information, instruction, training and supervision, including requirements of the OHS Act and Regulations and other associated legislation.
- Provide operating instructions for using devices or equipment.
- Ensure workers are aware of hazards.



- Establish an OHS Committee, WHS Representatives or Designate as required and consult and cooperate with them.
- Respond in writing to recommendations of OHS Committees, WHS Representatives or Designates and provide them with periodic written updates on implementation.
- Make arrangements for and consult with the OHS Committee or WHS Representative or Designate during workplace inspections.
- Cooperate with anyone exercising a duty imposed under OHS legislation.
- Ensure safety clothing, equipment or devices are used.
- Ensure safety procedures are followed at all times.
- Notify the OHS Division of a workplace accident or potential accident, that could result in a serious injury or death.

In addition to the obligations in the OHS Act, an employer must ensure that:

- All buildings, structures, excavation machinery, workstations, places of employment and equipment are capable of withstanding the stresses likely to be imposed upon them and of safely performing the functions for which they are used.
- Necessary protective clothing and devices are used for the health and safety of workers.
- Safe work procedures are followed at all workplaces.
- Work procedures promote the safe interaction of workers and their work environment to minimize the potential for injury.

You must also provide health and safety information. This includes information about hazards, hazard controls and work practices and procedures. Health and safety information does not include personal and confidential information.

Employers must also ensure:

- OHS information is readily available to OHS Committees, WHS Representatives or Designates and employees.
- OHS legislation is readily available.
- OHS program, plans, procedures or reports are in writing and readily available.
- OHS orders or notices are posted and readily available.
- OHS Committee minutes are posted and readily available.



## Workers' rights and responsibilities

Employers need to be aware of workers' rights and responsibilities under the internal responsibility system.



Under the OHS Act, workers have three fundamental rights:

- **The right to know**
- **The right to participate**
- **The right to refuse unsafe work**

Workers also have duties under the OHS Act. These include the following:

- Protect their own health and safety, and that of coworkers and others at or near the workplace.
- Cooperate with their employer, coworkers, OHS Committee, WHS Representatives or Designate, and anyone exercising a duty imposed under OHS legislation.
- Follow instructions and training.
- Report hazardous conditions.
- Properly use all safety equipment, devices and clothing.

## Right to refuse unsafe work

A worker has a right to refuse work if they believe on reasonable grounds that there is an unsafe condition at the workplace, or that the work is a danger to themselves or others. Unsafe conditions include health and safety hazards that are not normal for the job, or normal hazards that are not properly controlled.

A work refusal is a last resort to address workplace hazards. Employer and worker obligations in the OHS legislation should make work refusals unnecessary.

Under the OHS Act and Regulations, employers must address health and safety concerns raised by workers or other parties, and control any workplace hazards. They must also ensure workers understand the workplace hazards, what should be reported and provide support to exercise their right to refuse.

If a worker determines that they need to refuse particular work, they must promptly report the refusal and the reasons for it to the employer, supervisor or another designated person. As an employer, you are required to look into and eliminate the danger if it exists.

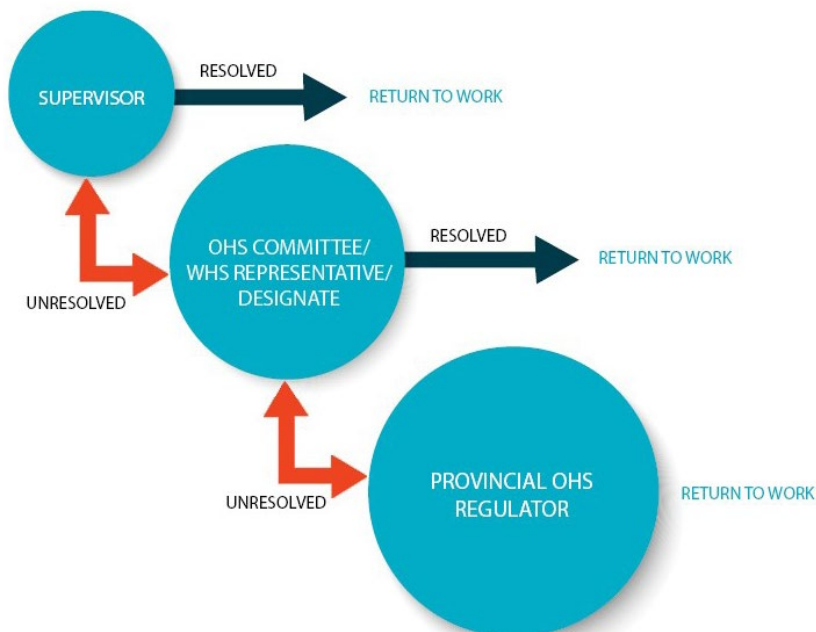
The worker is entitled to the same wages and benefits that they would have received had the refusal not taken place. You may temporarily reassign the worker to alternate work while the work refusal situation is being resolved.

You may reassign the work to other workers after you determine that no unsafe condition exists. When reassigning the work, you must advise the other workers of the refusal and the reason for it, and make them aware of their own right to refuse the work.

If they are not satisfied that you have addressed the unsafe condition, a worker can report the refusal to the OHS Committee, WHS Representative or Designate.

If still unsatisfied with the outcome, the worker may file the refusal with the OHS Division. An OHS Officer will investigate the refusal and render a decision.

### Process of refusing work on grounds that an unsafe condition exists at the workplace



You cannot take discriminatory action (termination, layoff, demotion, transfer or change in job location) against a worker for exercising their rights and duties under the legislation.





## OHS program

If you have 10 or more workers, you must set up and implement a health and safety program in consultation with the OHS Committee. A health and safety program is a coordinated system of procedures, processes and other measures designed to promote continuous improvement in workplace health and safety and reduce injuries and illnesses.

OHS Regulations require the program to include certain elements and the program must be reviewed and updated at least every three years.

The required elements are:

- A health and safety policy.
- A statement of OHS responsibilities of the employer, supervisors, workers and OHS Committees, WHS Representative or Designate at the workplace.
- Procedures for preparing written safe work practices and procedures appropriate to the hazards and work activity.
- A plan for orienting and training workers.
- Provisions for establishing an OHS Committee, WHS Representative or Designate.
- A system for the recognition, evaluation and control of hazards.
- Procedures and schedules for regular inspections by management and committee members.
- Procedures for the identification, reporting and control or correction of hazards.
- Procedures for incident investigation to determine the cause and the actions necessary to prevent a recurrence.
- A plan for the control of biological and chemical substances handled, used, stored, produced or disposed of at the workplace.

- A system to ensure contractors comply with the legislation.
- An emergency response plan.
- Procedures for maintaining records and statistics.

If you employ fewer than 10 workers, a program is not required. You must, however, have a health and safety policy and documentation to demonstrate actions have been taken to ensure the health, safety and welfare of your workers.



Read more about OHS Program – Program Elements on our website at [workplacenl.ca](http://workplacenl.ca).

## OHS Committees, WHS Representatives and Designates

The purpose of the OHS Committee, WHS Representative or Designate is to ensure worker participation in health and safety, and encourage worker and employer cooperation. OHS Committees, WHS Representatives and Designates serve as internal monitors to ensure ongoing effectiveness of OHS at the workplace.

Workplaces with 10 or more workers must have an OHS Committee that includes worker and employer representatives who meet regularly to discuss and resolve workplace health and safety issues.

Workplaces with less than ten workers must have a WHS Representative and those with less than six workers may have a WHS Designate.

OHS Committees, WHS Representatives and Designates have similar duties. These include inspecting the workplace at regular intervals, participating in hazard identification and incident investigations, and making recommendations respecting the health and safety of workers.



The duties of OHS Committees, WHS Representatives and Designates are set out by the OHS Legislation. Review the Act and Regulations for more details.

As an employer, you are required to ensure the appropriate number of OHS Committee members are trained. The WHS Representative and Designate must also be trained. You are also required to report to WorkplaceNL when new worksites are established, closed permanently or temporarily for seasonal shut down.



Read more about OHS Program Element 2 –What is an OHS Committee, Representative or Designate on our website at [workplacenl.ca](http://workplacenl.ca).

## Education and training

OHS legislation dictates the legal obligation for education and training in the workplace.

The OHS Act requires an employer to:

- Identify what information, instruction and training is required for their workplace and then determine how that information is going to be presented.
- Provide education on the health and safety hazards, particularly those that workers will be exposed to in the workplace during the performance of their duties.
- Provide operating instructions to workers for every device or piece of equipment that is provided to them for their protection.

In addition to workplace-specific education and training, the OHS Regulations outline the following mandatory training:

- Committee/Representative/Designate
- Fall Protection
- Confined Space Entry
- Power Line Hazards
- Traffic Control Person Level I
- Workplace First Aid
- Surface Attendant (diving)
- Mine Rescue

There are also three voluntary training standards, Musculoskeletal Injury Prevention, Supervisor Health and Safety and Traffic Control Person Level II.

This mandatory and voluntary training must be provided by a WorkplaceNL approved trainer.



## Reporting incidents

Where an incident takes place at a workplace that results in serious injury to a person or results in the death of a person; or that had,

or continues to have, the potential of causing serious injury to or the death of a person, you must immediately notify the OHS Division of the incident.

To report a serious injury, call the OHS Division at 709.729.4444 or 1.800.563.5471 (24 hours). You must participate in any investigation they deem appropriate and send a written report to the OHS Division within three days of a serious injury and five days of a fatality.



## Serious injury

Serious injury means:

- A fracture of the skull, spine, pelvis, leg or arm.
- An amputation of a leg, arm, hand, foot, finger or toe.
- The loss of sight of an eye.
- A serious internal hemorrhage.
- A substantial loss of blood.
- A burn that requires medical attention.
- An injury caused directly or indirectly by explosives.
- A burn to a major portion of the body.
- A poisoning by gas resulting in a partial or total loss of physical control.
- Unconsciousness or another injury likely to endanger life or cause permanent injury.

An injury is not considered a serious injury if the worker can be treated with first aid or medical treatment and then return to work immediately or on their next shift.

When a serious injury occurs, an OHS Officer may conduct interviews and gather evidence to determine what happened. The OHS Act defines powers of the Officers. You, your workers and other workplace parties are required to cooperate with the Officer.

You are also required to carry out your own investigation of the incident. Once the investigation is complete, you must provide a copy of the report to the OHS Committee, WHS Representative or Designate.

You must ensure the investigation report of serious injuries or incidents is readily available and provided to the OHS Division upon request. Notification to the OHS Division is separate from any notice you are required to give to WorkplaceNL or other local authorities, like the police.

## Non-compliance

If employers, workers or other workplace parties do not follow safe work practices and procedures, the OHS Act can be used to compel all parties to do so.

An employer representative is required to sign the compliance order and report back to the OHS Division the status of the corrective actions by the date indicated. A copy of the order must be posted in the workplace.

The OHS Act gives OHS Officers authority to issue orders, which require workplace parties to take measures that result in compliance with OHS legislation. There are two types of orders:

1. Compliance orders: note instances of observed non-compliance and the actions required to be taken to achieve compliance by a specified date.
2. Stop-work orders: cease work that is being done in an unhealthy or unsafe manner and can apply to an entire workplace, multiple workplaces of a single employer, certain activities, or areas of the workplace.

If employers, workers or other workplace parties (for example, supervisors) fail to comply with sections of the OHS Act or the Regulations, or ignore what an OHS Officer says, charges can be laid.

Problems may be advanced to courts if people ignore the law or do not cooperate and address workplace health and safety issues. Where a person is convicted of an offence, they are liable to a fine of not less than \$500 and not more than \$250,000, or to a term of imprisonment not exceeding 12 months or to both a fine and imprisonment.

Where a corporation is convicted of an offence, the corporation is liable to a fine of not less than \$2,000 and not more than \$250,000. In addition to a fine, the court may impose a fine not exceeding \$25,000 for each day during which the offence continues.

In certain cases involving serious injury or death, criminal negligence charges can be laid. In such cases, the maximum jail penalties are 10 years for each person injured and life imprisonment for each person killed. The Criminal Code of Canada

establishes legal duties for workplace health and safety and imposes serious penalties for violations that result in injuries or death.

### **OHS education**

The prevention of workplace injuries, illnesses and occupational diseases is a shared responsibility of WorkplaceNL and its partners and stakeholders.

Part of WorkplaceNL's mandate is to promote public awareness and educate employers, workers and others, about workplace health and safety.

The Prevention Services Department consists of a group of health and safety professionals that focus on promoting OHS education and awareness with employers and workers in our province.

The Prevention Services Department is made up of four units.

- Advisory Services
- Analytical Services
- Certification Training
- Education Services

**All services provided by WorkplaceNL are included in the assessment rates charged to employers.**

### **Advisory Services**

The Advisory Services unit is made up of health and safety professionals who are available to:

- Provide advisory and consultative services to employers in all facets of OHS programs and policies.
- Provide learning resources (fact sheets, safety shares).



- Coordinate and conduct PRIME audits to ensure compliance with WorkplaceNL's PRIME program.
- Conduct OHS audits, evaluate health and safety programs and make recommendations for improvement to employer programs.
- Complete safety culture assessments and identify opportunities for improvement.
- Assist with industrial hygiene assessments.
- Complete ergonomic reviews of safe work practices.

Employers can contact health and safety advisors with questions about education initiatives within workplaces. Employers can also access the services of an industrial hygienist, musculoskeletal injury advisor, workplace violence and harassment advisor, OHS education consultants, and many more trained safety professionals.

### Analytical Services

The Analytical Services unit identifies, researches, analyzes, evaluates and provides advice on existing and emerging occupational health and safety issues and injury trends. This unit utilizes the accident reporting system to conduct trend analysis.

This unit can also provide injury trend statistics for workplaces and their industries.

### Certification Training

WorkplaceNL has a legislated responsibility to develop training standards and programs for various topics as outlined in the OHS Act and Regulations Newfoundland and Labrador.

The Certification Training unit:

- Approves training providers and trainers
- Evaluates curriculum
- Evaluates trainers
- Monitors and audits training



To learn more about WorkplaceNL, you can watch the recorded webinar entitled [Getting to Know WorkplaceNL](#).

### Education Services

The Education Services unit:

- Develops and delivers online learning courses, workshops, webinars, podcasts and structured learning outcomes in occupational health and safety.
- Develops and delivers presentations for employers, workers, OHS Committee members, WHS Representatives and Designates, including sessions that are targeted or requested by specific workplaces on specific topics.
- Delivers safety education programs that are directed toward identified needs and meet the needs of stakeholders.

### MyWorkplaceNL

Through **MyWorkplaceNL** employers can sign in to their **connect** account to:

- Submit Employer's Report of Injury (Form 7).
- Submit Early and Safe Return to Work (ESRTW) plans for your injured workers.
- Submit Annual Employer Statements.
- Request clearance as a principal or contractor.
- Create a list of hired contractors and automatically receive a notification when a contractor's status changes with WorkplaceNL.
- View monthly Assessment Statements.
- Update payroll estimates.
- Submit OH&S minutes and manage worksites and committee members through WorkplaceNL's **connect**.





### **Certification Training Registry**

The Certification Training Registry (CTR) provides workers, employers, training providers, and trainers with convenient, online access to training courses and records. Workers and employers can better monitor when their certification training expires and register online for training.

### **PRIME program**

PRIME is WorkplaceNL's employer incentive program. Through PRIME, employers can lower their assessment rates by meeting the PRIME practice requirements and managing claim costs through early and safe return-to-work programs.

Under PRIME, employers can receive two types of financial incentives.



**PRIME Practice Incentive:** Employers may receive a 5 per cent practice refund on their average annual assessments by having good OHS and return-to-work programs in place.

**PRIME Experience Incentive:** Employers who manage their claims costs through early and safe return-to-work programs can receive an experience refund, while employers with high claim costs may receive an experience charge. You must first qualify for a practice refund to be considered for an experience refund. However, employers will always be subject to experience charges if applicable.

Submit your annual employer statements to by February 28 each year to be eligible for a PRIME refund.

**Sources:**

- Government of Alberta (Occupational Health and Safety)

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## **St. John's Office**

146-148 Forest Road, P.O. Box 9000, St. John's, NL A1A 3B8

**t** 709.778.1000 **f** 709.738.1714 **t** 1.800.563.9000

## **Grand Falls-Windsor Office**

26 High Street, P.O. Box 850, Grand Falls-Windsor, NL A2A 2P7

**t** 709.489.1600 **f** 709.489.1616 **t** 1.800.563.3448

## **Corner Brook Office**

Suite 201B, Millbrook Mall, 2 Herald Avenue, P.O. Box 474, Corner Brook, NL A2H 6E6

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