



Worker Entitlements to H&S Information under the OHS Act

On July 1, 2021, Ontario Regulation 420/21 came into effect under the Occupational Health and Safety Act and streamlined the employer's reporting requirements under one regulation applicable to all workplaces in the province covered by the Act. This new Regulation further clarifies the information employers must share with the JHSC or workplace Health and Safety Representative as per sections 51 and 52 of the Act.

Notice of Critical Injuries

A critical injury is defined by Regulation O. Reg. 420/21 (previously O. Reg. 834) as an injury that places life in jeopardy; produces unconsciousness; results in substantial loss of blood; a fractured (or amputation of) an arm, leg, hand or foot; but not a fracture to a finger or a toe; burns to a major portion of the body; or loss of sight in one eye.

OHS Act Section 51 – JHSC/H&S rep and the union entitlement to receive notices

Where a person is killed or critically injured from any cause at a workplace, the constructor, if any and the employer shall notify an inspector, and the committee, health and safety representative and trade union, if any, immediately of the occurrence by telephone, telegram, or other direct means and the employer shall, within forty-eight hours after the occurrence, send to a Director a written report of the circumstances of the occurrence containing such information and particulars as the regulations prescribe.

OHS Act Section 52 – JHSC/H&S rep and the union entitlement to receive notices

If a person is disabled from performing his or her usual work or requires medical attention because of an accident, explosion, fire or incident of workplace violence at a workplace, but no person dies or is critically injured because of that occurrence, the employer shall, within four days of the occurrence, give written notice of the occurrence containing the prescribed information and particulars to the committee, the health and safety representative and the trade union.

What is “the prescribed information”?

The prescribed information referenced in s. 51 & 52 of the Act is the information the employer must provide in a written report or written notice to the committee, the health and safety representative and the trade union. This information shall include:

Section 51 – (A worker is killed or critically injured)

- The name, address and type of business of the employer
- The time, date and place of the occurrence
- The name of the worker
- The address of the worker
- The nature of the bodily injury or occupational illness
- The nature and circumstances of the occurrence, including a description of any machinery, equipment or procedure involved
- The name and address of the legally qualified medical practitioner that is attending to or attended to the worker



Section 52 – (Non-critical but worker is disabled from performing his or her usual work)

- The name, address and type of business of the employer
- The nature and circumstances of the occurrence, including a description of any machinery, equipment or procedure involved
- The name of the worker
- The address of the worker
- The time, date and place of the occurrence
- The nature of the bodily injury or occupational illness
- The names and addresses or other contact information of any witnesses to the occurrence
- The steps taken to prevent a recurrence or

Notice of critical injury triggers the JHSC/rep worker's right to investigate a critical injury

Section 9.31 (and Section 8.14 for reps): Worker members of the JHSC can select one or more such members (or if no committee, a health and safety rep may) investigate, visit the place where the injury occurred, and report findings to the JHSC (if any) and the MLITSD.

A critical injury triggers the right of the worker members of the JHSC or HSR to conduct an investigation and to draft a report and recommendations for the JHSC.

Written health and safety reports in the workplace:

Section 25 (2) L This section entitles JHSCs and HSRs to receive copies of the results of any report about occupational health and safety that exists in the workplace. Examples include air quality reports, mould reports, incident reports that do not result in injury. Note: The Act exempts harassment report investigations from this section.

An employer shall:

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

And the employer must inform workers of the report as well:

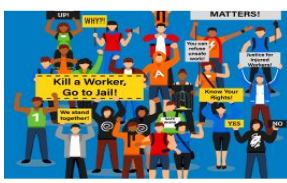
(m) advise workers of the results of a report referred to in clause (l) and, if the report is in writing, make available to them on request copies of the portions of the report that concern occupational health and safety.

Other injuries and reports of occupational disease

MLITSD Inspector Reports

JHSCs and HSRs are entitled to copies of MLITSD reports.

Section 57 (10): a) Where an inspector makes an order in writing, or issues a report of his or her inspection to an owner, constructor, licensee, employer, or person in charge of the workplace, the owner, constructor, licensee, employer, or person in charge of the workplace shall forthwith cause a copy or copies of it to be posted in a conspicuous place or places at the workplace where it is most likely to come to the attention of the workers and shall furnish a copy of the order or report to the health and safety representative and the committee if any.



And if the MLITSD visit resulted from a worker complaint, the worker may request and receive a copy of the MLITSD report as well:

Section 57 (10) b) And if the order or report resulted from a complaint of a contravention of this Act or the regulations and the person who made the complaint requests a copy of it, the inspector shall cause a copy of it to be furnished to that person.

Workplace violence risk assessment and re-assessment

Section 32.0.3 – results of risk assessments and re-assessments provided to JHSC or H&S Rep. Employers must provide the JHSC/HSR with copies of the workplace violence risk assessment and any reassessment. Remember that the risk assessment should also include measures and procedures to address the risks identified.

An employer shall:

- (3) (a) advise the committee or a health and safety representative, if any, of the results of the assessment, and provide a copy if the assessment is in writing; and
- (b) if there is no committee or health and safety representative, advise the workers of the results of the assessment and, if the assessment is in writing, provide copies on request or advise the workers how to obtain copies.
- (5) Subsection (3) also applies with respect to the results of the reassessment.

Worker entitlements for information

Workers are entitled to the information and instruction that they need in order to work safely (Section 25.2a). The Act also has specific sections that entitle workers to get other information directly, such as the contents of the workplace violence and harassment policies and programs, and information about a person with a history of violence that the worker may come into contact with. Also, in cases of harassment, complainants and respondents are entitled to receive sufficient information to be able to participate in the investigation, they may be assured of confidentiality to the extent possible, and they are entitled to written results and information regarding corrective action following the investigation.

Section 32.0.5 – employer duties re: violence

- (2) An employer shall provide a worker with,
 - (a) information and instruction that is appropriate for the worker on the contents of the policy and program with respect to workplace violence; and
 - (b) any other prescribed information or instruction.
- (3) An employer's duty to provide information to a worker under clause 25 (2) (a) and a supervisor's duty to advise a worker under clause 27 (2) (a) include the duty to provide information, including personal information, related to a risk of workplace violence from a person with a history of violent behaviour if, (a) the worker can be expected to encounter that person in the course of his or her work; and (b) the risk of workplace violence is likely to expose the worker to physical injury.

Section 32.0.7 – duties re: harassment

To protect a worker from workplace harassment, an employer shall ensure that;

- (b) the worker who has allegedly experienced workplace harassment and the alleged harasser, if he or she is a worker of the employer, are informed in writing of the results of the investigation and of any corrective action that has been taken or that will be taken as a result of the investigation.