



CONSTRUCTION  
SAFETY

---

# *Basics of Supervising*

*Modules 1-3*



*Home Study*

# **Basics of Supervising Home-Study Training Program**

## ***Modules 1–3***

**“READ ME FIRST”**

**1–Elements of Supervision**

**2–Motivation and Communication**

**3–Legal Responsibilities**

*Developed by the*

**Construction Safety Association of Ontario**

*in conjunction with the*

**Provincial Labour-Management**

**Health and Safety Committee**

The information presented here is, to the best of our knowledge, current at the time of printing and is intended for general application. This publication is not a definitive guide to government regulations or to practices and procedures wholly applicable under every circumstance. The appropriate regulations and statutes should be consulted. Although the Construction Safety Association of Ontario cannot guarantee the accuracy of, nor assume liability for, the information presented here, we are pleased to answer individual requests for counselling and advice.

©Construction Safety Association of Ontario, April 2000

ISBN 0-919465-77-3

Construction Safety Association of Ontario  
21 Voyager Court South, Etobicoke, Ontario M9W 5M7  
(416) 674-2726 1-800-781-2726 Fax (416) 674-8866  
[info@constructsafety.on.ca](mailto:info@constructsafety.on.ca) [www.csao.org](http://www.csao.org)

# ***Basics of Supervising Home-Study Training Program***

## **CONTENTS**

**Introductory Module – “Read Me First” ..... 5**

**Module 1 – Elements of Supervision ..... 11**

**Module 2 – Motivation and Communication ..... 47**

**Module 3 – Legal Responsibilities ..... 79**

# **Introductory Module**

## **"Read Me First"**

### **A. Background**

Few supervisors in construction have had training to prepare them for their role as a supervisor. The fortunate ones have had good role models to coach them through the rough spots and to provide some guidance on what to do and how to do it. However, most supervisors have had to learn new skills and gain new knowledge on their own, often learning the hard way.

The effects of inadequate training can show up in many different ways. Whether it is complying with health and safety regulations, bringing a project in on time and under budget, or just dealing effectively with the many different challenges that arise daily, the job is always affected by how well a supervisor applies basic management techniques and good "people skills."

The program you are beginning was originally designed as a conventional classroom-based program. It was widely presented to many different construction audiences with excellent results. Workers new to supervision found it very informative. Even supervisors with many years of experience found the program to be a good review of things they had learned over the years. Participants' comments helped shape the program and this version has been designed specifically with the home-study learner in mind.

Supervisors have a key role to play in reducing the frequency of injuries and fatalities in our industry. Legally, they have very specific responsibilities regarding health and safety. This program has been designed to make you aware of your supervisory responsibilities and to provide you with information on how to exercise them effectively. It provides you with an introduction to basic management skills and provides you with information on how to communicate effectively. You will learn how to apply this knowledge successfully as part of the process of becoming a more effective supervisor.

## B. Intended Audience

The Basics of Supervising Training Program–Home-Study Version is intended to meet the specific needs of supervisor candidates or supervisors having a minimum of supervisory or managerial experience. Participants in most cases will be supervisors in charge of small crews and will have had little previous exposure to health and safety training. For those with broader experience, the program is intended to provide a good review of the basics. Participants may have limited knowledge of the *Occupational Health and Safety Act* (OHSA) and of the *Regulations for Construction Projects*. Similarly, they may have only a limited ability to use the "Green Book" (the Ministry of Labour booklet containing the Act and the Construction Regulations.)

## C. Program Overview

You are in control of this course. You can go at your own pace, whenever it is convenient for you to do so. You can do as much or as little as you want at any given time. However, going through the materials you have been provided with will deliver the basics of effective management for construction supervisors.

The program is comprised of an introductory module called *Read Me First* and six subject modules:

1. Elements of Supervising
2. Motivation and Communication
3. Legal Responsibilities
4. Health and Safety Programs
5. Site Emergencies and Accident Investigation
6. Construction Injuries and Fatalities

The modules can be done in whatever order you wish. It is recommended, however, that you complete them in the order 1 through 6. Knowledge gained in doing the early modules (for example, the basics of reading legislation) can then be applied to subsequent modules.

The home-study package you have received is comprised of:

- program modules
- CSAO documents for use as reference materials on specific topics
- Ministry of Labour publications.

**Note: A checklist of package materials is contained in Appendix A at the end of this introductory module.**

## D. Legal Obligations of Supervisors

Besides knowing construction and being able to apply sound management techniques, construction supervisors *must* understand the legislation that applies to every Ontario construction project. Because construction supervisors normally work at a distance from their employer, they must be able to function without day-to-day guidance on legal duties. This program will help you fully understand your legal obligations.

Ontario Health and Safety legislation puts specific responsibilities on buyers of construction, constructors, employers, *supervisors*, and workers. The legislation requires these "workplace parties" to establish and maintain an Internal Responsibility System (IRS) for workplace health and safety. It also requires that the workplace parties follow the many rules laid out in regulations that relate to construction.

Ignorance of the law will not allow a workplace party to escape prosecution when work is not done safely or when an accident occurs. When there is a failure to work in accordance with the law, the Ministry of Labour can intervene and stop unsafe work. For serious health and safety infractions, any of the workplace parties can be taken to court. A conviction can result in fines or imprisonment.

To meet the need for comprehensive instruction, this program includes two levels of training. *Level One: Basics of Supervising* addresses management skills and provides information which can be applied on all kinds of projects. It does not, however, go into detail about all the regulations and good practices that may apply to different construction activities. That is addressed in *Level Two: Construction Health and Safety Representative Program*.

Ontario law requires that a supervisor be a "competent person." As legally defined, competent persons must have knowledge, training and experience to organize the work and its performance. They must be familiar with the OHSA and the regulations that apply to the work. And they must have knowledge of any potential or actual dangers in the workplace. While this program does not address all of the qualifications required in a supervisor, it will help you to be a competent person as defined by law.

## **E. Goals and Objectives**

To be successful, a training program must guide a participant toward the mastery of new knowledge, behaviour, and attitudes. The program achieves its overall goal by taking a participant through a sequence of simple learning objectives that spell out exactly what the participant will be able to do at the end of each module.

Since you manage your own time in this course, you can cover as many or as few of the objectives as you want at any particular time. A review of the objectives you cover during a particular work session will provide you with a quick check on your progress. Participants who can say with confidence that they have met the objectives they have covered are well on their way to successfully completing the program.

## **F. How To Do The Course**

As mentioned previously, the modules can be done in whatever order you wish. It is recommended, however, that you complete them in the order 1 through 6. This will allow you to use the knowledge gained in doing the early modules (for example, the basics of reading legislation) to help you as you work through subsequent modules.

### **1. Working through the Material**

At the beginning of each module please read the "Background and Introduction" as well as the "Goal" and "Objectives." Reading these parts will set the stage for the learning that will take place in each subject area.



When you come to a box with the title **"Activity"**, it is suggested that you do the exercise, worksheet or case study when it is indicated to do so. Doing the activity then will allow you to apply the knowledge to subsequent activities.

Reading the support materials provided will help you gain the overall knowledge required to complete the program successfully. It is urged that you read all the materials indicated.

## **2. Completing Performance Review**

When you have completed the readings and the activities you will be ready to participate in a supervised Performance Review Examination. This will test your knowledge of the material contained in the *Basics of Supervising Home-Study Training Program*. You may register to take the examination by contacting Customer Service at CSAO 1-800-781-2726. Examination dates will be set for different regions and you may register for the time, date, and location most convenient for you.

## Appendix A: Checklist of Materials

- ☐ **Occupational Health and Safety Act and Regulations for Construction Projects** ("green book" — Ministry of Labour publication)
- ☐ **Regulation 1101: First Aid Requirements** (WSIB)
- ☐ **Construction Health & Safety Manual** (CSAO M029)
- ☐ **Accident Investigation** (CSAO DS029)
- ☐ **Emergency Response Planning for Construction Projects** (CSAO B030)
- ☐ **Health and Safety Program Planning for Construction** (CSAO DS030)
- ☐ **Safety Talk (1 to 50)** (CSAO V005)
- ☐ **Safety Talk Report Form** (one pad) (CSAO RF023)
- ☐ **"In All Cases of Injury/Disease"** (WSIB Poster: 0082C)

# **Module 1**

## ***Elements of Supervision***

# Table of Contents

A. Background and Introduction .....	15
B. Goal .....	16
C. Objectives .....	16
D. Supervision in Construction .....	17
1. The role of construction supervisors .....	17
2. Desirable characteristics in a supervisor .....	18
3. Job tools for supervisors .....	20
4. Supervisory responsibilities .....	21
5. Measurement of supervisory performance .....	23
6. The road to success .....	25
E. The Management Process — Four Basic Functions .....	26
1. Planning .....	28
2. Organizing .....	28
3. Directing .....	29
4. Controlling .....	30
5. The management process: Some final words .....	31
F. Time Management for Construction Supervisors .....	32
1. Keeping a time log .....	32
2. Setting priorities .....	33
3. Delegating whole tasks .....	33
4. Firefighting .....	33
5. Doing routine tasks .....	34
6. Setting deadlines .....	34
7. Grouping tasks .....	34
8. Maintaining site order .....	34
9. Anticipating the unexpected .....	35
10. Dealing with “the critical few” .....	35
11. Setting objectives .....	35
12. Learning to deal with problems .....	35

G. Dealing with Problems.....	36
1. The problem-solving process .....	36
2. Four Basic Options for Dealing with Problems .....	39
3. Summary .....	41
H. Leadership Styles.....	43
1. The dictator style .....	44
2. The buddy style .....	44
3. The do-nothing style .....	44
4. The middle-of-the-road style.....	45
5. The team style .....	45
6. A final word on leadership styles .....	46

# Module 1

## Elements of Supervision

### A. Background and Introduction

Successful supervisors share special skills and qualities. Usually these can be improved with the help of professional training.

The Elements of Supervision Module has been designed to do just that. It examines several approaches to the supervisor's essential task..... *getting work done through others*.

This Module does four things:

- First, it explores some fundamental characteristics of construction supervision.
- Second, it discusses the four basic functions of the “management process.”
- Third, it explores both time management skills and a four “T” approach to dealing with problems.
- Fourth, it concludes with a brief discussion of leadership styles.

No brief training module can hope to address all the concerns that preoccupy construction supervisors. It can, however, provide you with a foundation upon which to build a good set of supervisory skills over time.

Besides the Participants' Workbook, additional reference materials including *the Occupational Health and Safety Act*, the Regulation for Construction Projects, manuals, and data sheets will be used to help you during the learning process. These aids are used to promote review of the subject matter and to encourage continuing self-development.

## B. Goal

The goal of the module is as follows:

*Upon completion of this module, you will be able to apply basic management functions to routine supervisory tasks.*

## C. Objectives

You will be required to meet several objectives to achieve the goal of this module.

*Upon completion of this module you will be able to:*

1. *Describe the construction supervisor's role.*
2. *List six characteristics judged desirable in supervisors.*
3. *Describe a four-part management process suitable for use by first-line supervisors.*
4. *List at least four activities involved in each of the management functions of planning, organizing, directing and controlling.*
5. *List six methods of improving time management.*
6. *Identify a simple "four-options" approach to dealing with problems.*
7. *Resolve a typical supervisory problem by applying one of the four "T" approaches to addressing problems.*
8. *Identify three leadership styles.*

## D. Supervision in Construction

### 1. The role of construction supervisors

First-line construction supervisors can nearly all say, “Yes, I worked on the tools before moving up into supervision.”

In fact, employers recognize the value of choosing supervisors from the ranks of their experienced on-site employees. But to qualify as a supervisor requires more than general knowledge of a project site. As a starting point, construction supervisors need either a thorough knowledge of a particular trade, or knowledge of a number of jobs that may not be trade-specific but that do demand specialized expertise.

Although promotion from within an organization is good for employees, it is not necessarily the complete solution to providing competent supervisors. This is because the same individuals who have been hard workers or superior tradespersons, or who have mastered unique job skills, may lack the knowledge necessary to make an effective supervisor. Yet when the call comes, many will find themselves literally laying down their tools one day and assuming their new role as supervisor the next.

Companies that wouldn't think of hiring inexperienced help for most ordinary construction tasks will often place the success of an entire project in the hands of someone without supervisory experience. This new supervisor, in many cases someone without the benefit of any formal supervisory training, is then expected to successfully manage workers. Fortunately, many who make this transition are eventually able to merit their managers' trust. But the supervisor's job is certainly not made any easier for them by a lack of formal preparation for their demanding new role.

So how would you briefly define the supervisor's role?



<u>Activity</u>	
<i>Write down a simple definition of a supervisor's role.</i>	
<hr/>	
<hr/>	
<hr/>	
<hr/>	
<hr/>	
<hr/>	
<div style="text-align: right;"><input type="checkbox"/> Check</div>	

You could probably come up with several good definitions, but their meaning would likely be more or less similar to the one below.

*The role of the supervisor is to get work done through others.*

## 2. Desirable characteristics in a supervisor

Although there is no single mould from which all supervisors are cast, it is generally accepted that good supervisors share some common characteristics. And they become skilled at applying these attributes in building good or “key” relationships.

For a long time, the field of study known as human relations has attempted to understand these key relationships..... that is, the relationships that exist .....

- between supervisors and their workers.....
- between the *quality* and the *quantity* of work produced..... and
- between the qualities of highly effective supervisors and the successful completion of work projects.

Some supervisors are able to develop all these kinds of relationships, but just what exactly is what we often refer to as a “*good*” supervisor?

The thinking within the human relations field regarding what makes a good supervisor has changed over the years. There are, however, a number of basic concepts and beliefs that have been agreed upon in this respect. These are well worth knowing.....for you, and for companies trying to improve their operations through the development of good supervisors.

<u>Activity</u>	
<i>Briefly describe what you believe are five characteristics of a good supervisor.</i>	
1.	_____
2.	_____
3.	_____
4.	_____
5.	_____
<div style="text-align: right;"><input type="checkbox"/> Check</div>	

Below are a few of what are believed to be characteristics that are of special importance to supervisors.

To be successful, supervisors must have:

- leadership skills
- the ability to motivate
- an in-depth knowledge of the work
- the ability to make good decisions
- energy, initiative, and enthusiasm
- loyalty and dedication
- emotional stability
- flexibility and cooperativeness.

These may or may not be similar to the characteristics you described, but let's face it; it would be rare for a supervisor to possess *all* of these traits, or to possess them all to the same degree. This is why training is often desirable and effective in helping supervisors improve in areas where they need greater strength. Leadership skills and motivational techniques, for example, are just

two areas for which formal courses of instruction are available. As you work through this Home-Study Program you will take some important steps in what will probably become a lifelong journey.....that of becoming a good supervisor.

### 3. Job tools for supervisors

We know that a supervisor's role is to get work done through others, and that there are a number of characteristics which need to be developed to allow good supervisors to do that. But what about "tools" to help supervisors get the job done well? Do supervisors have any? Yes they do. But they are no longer physical items such as hammers, drills, or wrenches. Rather, they are a new set of more abstract tools..... things such as communication skills, the ability to plan, and knowledge of the principles of managing others.

Acquiring such skills requires more than strapping on a tool belt. This is because the job focus shifts at the supervisory level. For example, supervisors no longer need to worry about how they use tools, materials and equipment themselves. Instead, they must concern themselves with ensuring that tools, materials and equipment are readily available and used properly *by others* so that *they* can get the work done safely and efficiently.

As a supervisor you will have to learn many new demanding or "high-order" skills. You will have to master how to:

- anticipate needs
- plan sequences of tasks to complete jobs successfully
- organize and assign resources
- explain clearly to others when and how to perform tasks
- verify that tasks are actually being accomplished as intended.

One skill—the ability to *manage* a crew—is especially important to a supervisor who wishes to perform effectively. One approach sees the management process as consisting of four basic functions: *planning*, *organizing*, *directing*, and *controlling*. When combined with refined skills in *human relations*, management based on these four principles has been shown to boost a crew's performance and maintain high morale. (This approach is explored in more detail in Section E of this Module.)

Before moving on to supervisory responsibilities, it's important to understand that . . .

- Supervisory skills are more general and abstract than hands-on worker skills.
- Supervisors will be called on to be leaders, mediators, arbitrators, decision-makers, initiators of action, and many other things they may have never been before.
- Supervisory responsibility means looking at work through the eyes of a manager. (For example, supervisors will have a demanding role to play to meet their new health and safety responsibilities.)
- Supervisors are the critical link between upper management and hands-on workers.
- Supervisors who learn and practise management skills will become much more effective in their primary task of achieving results through people.

## 4. Supervisory responsibilities

New approaches are necessary to get work done through others. Simply working harder yourself isn't the answer. While a fortunate few may be able to supervise without much change in their behaviour, most eventually recognize that their new role is one that must be consciously mastered through new learning.

All too often, senior management communicate their expectations poorly and assume that new supervisors will automatically know what their new role requires. However, workers who complete formal training for their new supervisory responsibilities quickly recognize that they will need much more than the simple trust of their employers to perform effectively.

In fact, there are a number of activities supervisors have to do (or skills they have to develop) which may be completely new to them when they begin tackling their new responsibilities.

<u>Activity</u>	
<i>Briefly describe six responsibilities (or skills) that good supervisors need to develop quickly.</i>	
1.	_____
2.	_____
3.	_____
4.	_____
5.	_____
6.	_____
<div style="text-align: right;"><input type="checkbox"/> Check</div>	

Supervisors soon learn that their responsibilities will require them to develop some or all of the following *human relations* skills:

- leading
- communicating
- maintaining good interpersonal relationships
- dealing with problems and making decisions
- dealing with conflict
- interviewing
- counseling
- motivating.

As well, supervisors must be able to handle more concrete managerial tasks such as:

- providing training
- applying cost controls

- maintaining quality controls and meeting standards
- meeting scheduling requirements
- procuring materials and equipment
- organizing workers and project resources
- ensuring productivity and profitability
- managing time.

Supervisors are also expected to understand and meet the requirements of the following:

- the *Occupational Health and Safety Act*
- the Regulation for Construction Projects
- the company health and safety policy and program
- contract provisions
- environmental laws
- the Workplace Hazardous Materials Information System (WHMIS)
- other relevant statutes and regulations, such as those governing rollover protection, lead, asbestos on construction projects, propane, and the transportation of dangerous goods.

Progressive employers usually provide new supervisors with detailed information and require them to take formal training in supervision. They may even require them to complete a break-in period as assistant supervisors. Unfortunately, less highly developed companies may offer new supervisors little more than casual instructions, even though they hold the same high expectations of them.

## 5. Measurement of supervisory performance

Supervisors are judged rigorously, according to the individual standards of *senior management*, other *supervisors*, and *workers*. Much can depend on whether supervisors are interested in receiving an overall good report from *all* concerned, or whether they have focused on satisfying one group only. If supervisors *do* try to satisfy the standards of one party only, overall

performance will ultimately suffer so that eventually even meeting the needs of that one group may become impossible.

*What are the primary expectations of the three main parties?*

**Management:** Construction companies are in business to make money and they judge the performance of supervisors on that basis. Their top priority is seeing that the resources they have provided are managed well in the interests of profits. Other measures important to management are the quality of the work and, in some cases, health and safety.

**Supervisors:** Supervisors judge other supervisors in the three critical areas of (in decreasing order of importance) *planning*, *motivating*, and *communicating*. But since most planning done by construction supervisors is only *short-term* in nature, many of its *long-term* benefits are *seldom achieved in construction*. For example, *motivating workers to develop their individual capabilities* should be part of good long-term planning. Unfortunately it seldom is, mainly because of the transient nature of much of the workforce.

**Workers:** Not unexpectedly, workers also rate supervisors on their ability to plan, motivate and communicate. But with workers, a supervisor's ability to communicate is rated first and foremost, followed by his or her skill at planning and motivating. Workers also judge supervisors in a number of other areas including their:

- concern for safety
- openness to suggestions
- pride in the work and in the crew
- creativity in dealing with problems
- ability to develop unbiased relationships with workers
- willingness to accept overall accountability for the work.

One American study of the construction industry came to some conclusions worth noting here:

- First, supervisors and craftspersons agree that the more productive supervisors plan their work well, give clear direction, stress safety, motivate the crew, and are willing to accept suggestions.

- Second, these two parties agree that the more productive supervisors do not necessarily take into account the preferences of workers, and are not necessarily even-tempered.

There are a number of possible explanations for the unexpected second set of conclusions mentioned above. The construction workforce is slightly different from the mainstream workforce. Construction workers understand the short-term boom and bust cycles of their work. As a result, they may be more tolerant than others might be of not having their preferences indulged, and of the uneven temper of their bosses. After all, they know that both the job and the conditions won't last that long. In a similar way, construction workers will often overlook some things just to keep a job, especially if they've been without work for several months. It's important to note, however, that the best supervisors try never to take unfair advantage of such attitudes in their crew members.

## 6. The road to success

In the final analysis, successful supervisors succeed by observing and imitating role models; by committing themselves to keeping up-to-date; by improving their professional development through formal training; by developing good human relations skills; and by applying the important management process of *planning, organizing, directing, and controlling*.



## E. The Management Process — Four Basic Functions

Supervisors are busy people who are expected to apply a wide range of skills to accomplish many different kinds of objectives under constantly changing circumstances. To perform such a complex role, good intuition by itself is not enough.

### Activity

*Please go to the workbook, read Case Study 1 “Charlie, Construction Supervisor,” and answer the questions. The purpose of this exercise is to introduce the Case Study to you as a type of learning exercise and to give you background information upon which you can draw during the discussion provided in the rest of this Module.*

☐ Check

In order to succeed, supervisors must supplement their intuition with consistently applied management techniques that will help them plan, organize, carry out, and verify that their many tasks have done correctly. One such technique that has been shown to enhance supervisory performance consists of the systematic application of the four basic functions of:

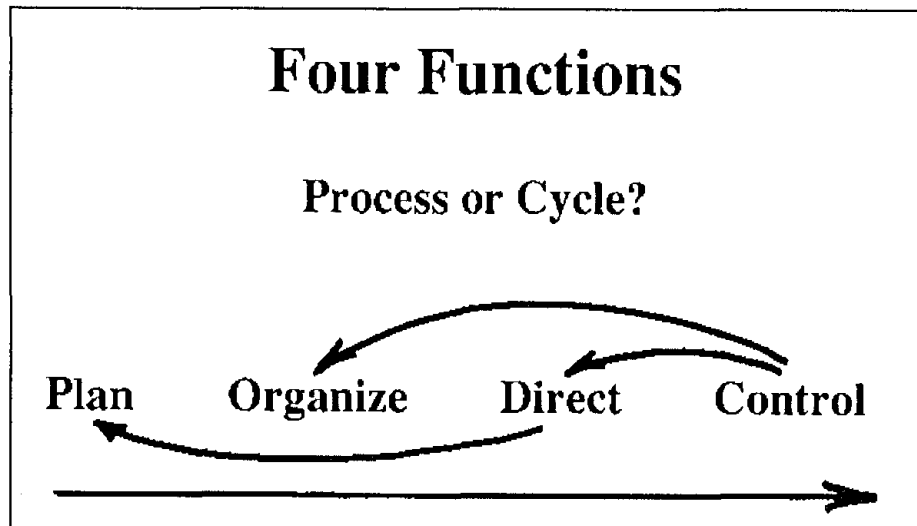
- planning
- organizing
- directing
- controlling.

In a perfect world, a supervisor performs all four of these key functions. The supervisor:

- **plans** the job
- **organizes** the resources (tools, materials, personnel, equipment, etc.) to get the job done
- **directs** the people who carry out the plan

- **controls** what is being done to ensure that the planned objective is accomplished.

This process begins with high-level planning of the overall task and then flows smoothly through organizing and directing to the final function of controlling the details.



In the real world, however, things are not always so simple. Organizing, for example, may require you to go back and adjust the plan; problems that surface during directing may require some re-organizing of resources; and attempts to control may reveal that the plan was unrealistic in some respect and must be revised.

In other words, at any particular step in the process, you may have to back up one or more steps and make adjustments, moving through several corrective cycles until the job is done.

But regardless of whether you see them as constituting a set of distinct functions, a blend of functions, a linear process, or a repeating cycle, the four elements (planning, organizing, directing, controlling) are central to the supervisor's job.

What follows is a closer look at each of these four functions in turn, along with some examples of the types of activities that go along with them. Note that these lists of activities are by no means complete; you could probably come up with many more activities which could be included.

# 1. Planning

The following is a useful definition of planning:

*Planning involves outlining a course of action that will accomplish a task in accordance with company policies, goals, and objectives.*

For most crew-level construction supervisors, planning is short-term. Activities associated with planning include:

- Evaluating a situation to establish what must be accomplished, what is needed to get it done, when it must be done, who is going to do it, and how it should be done.
- Breaking tasks into manageable parts; e.g., distinguishing between requirements for materials, equipment, and workers.
- Preparing an overall work schedule with the most efficient sequence of tasks to accomplish clearly defined objectives within the time allowed.
- Setting guidelines by which work standards and progress can be measured; e.g., setting standards for measuring the pace and quality of the work performance.
- Monitoring the plan to ensure it remains workable; e.g., making sure it can accommodate the changing needs of other on-site groups such as other trades.
- Communicating the plan to all parties involved.

# 2. Organizing

Organizing could be defined as follows:

*Organizing involves confirming a sequence of tasks, and then arranging for and allocating the resources needed to accomplish the tasks in the most efficient way.*

Activities associated with organizing include:

- Systematically assessing project or task needs with respect to workers, materials, equipment, and time.
- Allocating resources to accomplish the task.
- Establishing a framework of responsibilities.
- Delegating whole tasks, where possible, and capitalizing on worker strengths and interests.
- Coordinating with other tasks and other crews on the site.
- Adjusting the plan, as necessary, to accommodate organizational limits.
- Regularly reviewing the organization of tasks to ensure the organization is workable.

### 3. Directing

Directing could be defined as follows:

*Directing involves communicating the plan and its organization to those who will carry out the work; issuing detailed instructions; then guiding and overseeing the crew as they carry out the instructions.*

Activities associated with directing include:

- Communicating the overall plan so workers can be guided by the “big picture”.
- Motivating workers to accomplish the plan; for example, by recognizing excellent work.
- Assigning specific tasks on a day-to-day basis.
- Listening to feedback to ensure that instructions are understood.
- Providing training as necessary.
- Reviewing the plan and the organization of the work to ensure that objectives remain workable.

## 4. Controlling

Controlling could be defined as follows:

*Controlling means actively monitoring the work and making ongoing adjustments to ensure that it progresses smoothly, is completed on time, is up to standard, and is done according to the plan.*

Activities associated with controlling include:

- Asking for feedback to ensure that directions are complete, understood, and acted upon
- Checking the work and following up on directions
- Conducting both planned and informal inspections
- Recording results
- Reporting on and addressing work hazards
- Reviewing and adjusting the plan on the basis of fresh information
- Exercising authority and taking corrective or disciplinary action as necessary.

Unlike the first three basic management functions (planning, organizing, and directing), *controlling* often presents a special challenge to supervisors, particularly those new to supervising. On many construction sites, controlling is the most neglected management function.

Controlling is essential because it:

- Involves the kind of close monitoring and feedback to workers that ensure work standards are understood and consistently met.
- Provides crucial information to keep upper management informed about actual, compared to planned, progress.
- Uncovers warning signals that reveal flaws in any or all of the planning, organizing, and directing stages.

## 5. The management process: Some final words

Experience has shown that:

- Time is not distributed equally among planning, organizing, directing and controlling.
- Boundaries between the four management functions can blur and overlap.
- Tasks that are new to the crew, or that are critical to getting something else done, deserve more planning, organizing, directing, and controlling than other more run-of-the-mill tasks.
- Time spent on planning and organizing can make directing and controlling easier later on.
- Some re-planning and re-organizing is normally done “on-the-fly” as new tasks and situations call for revision of the original plan.

### Activity

*Please review the answers you wrote in your workbook regarding Case Study 1 “Charlie, Construction Supervisor.”*

*Would you answer the questions any differently now that you understand the basic management process of planning, organizing, directing, and controlling?*

*In which part(s) of the management process could Charlie have been more effective? (Please check answers below.)*

<i>Planning</i>	<i>Yes</i> _____	<i>No</i> _____
<i>Organizing</i>	<i>Yes</i> _____	<i>No</i> _____
<i>Directing</i>	<i>Yes</i> _____	<i>No</i> _____
<i>Controlling</i>	<i>Yes</i> _____	<i>No</i> _____

☐ Check

## **F. Time Management for Construction Supervisors**

Time is the one resource we are all provided with in equal measure. Whether we're concerned with a passing minute or a working day, the same amount of time is available to everyone. And although we all complain that there isn't enough time, you could say that each of us has all there is.

People often feel pressed for time because they use their time ineffectively. As most of us know, it is all too easy to consume our precious hours in activities unrelated to the things that really need to be done.

As a supervisor you must learn to manage your time as effectively as you manage other valuable resources. Otherwise, you're going to find yourself without adequate time to do the job right. When this happens, you will have to find time to perform the task all over again. This is a frustrating and wasteful pattern that can be corrected only by taking a hard look at how you use the hours of each day.

The following guidelines can help you learn to use time effectively.

### **1. Keeping a time log**

Keep a log of exactly how you spend your time for at least 10 working days. Divide the days into 15-minute segments. At the end of the period, analyze the record. See how your time is actually spent, then change, reduce or eliminate those activities that clearly fail to use time effectively. Repeat this process periodically to ensure that time-wasters haven't crept back into your routine.

## 2. Setting priorities

Make sure that the higher the priority of a task, the more careful you are to set aside the time needed for it. Thorough planning before the work begins will help you to rank jobs by importance. This is the first step in allocating the limited hours for their completion.

## 3. Delegating whole tasks

Delegating whole tasks means allowing crew members to take responsibility for all phases of any particular operation. For example, ask a competent worker to plan and organize the complete unloading, erection and inspection of a scaffold; give a safety representative the time, information and hands-on resources to prepare, deliver and document a safety talk. In the meantime, use your own supervisory time to plan, organize, direct, and control the *overall* project. Delegating whole tasks empowers workers, giving them a sense of challenge, accomplishment, and importance as a responsible member of the team.

When delegating, remember to do the following.

- Indicate the final results you expect, not the method to perform the task.
- Establish controls to measure work against expected results.
- Give workers all the resources/information they will need to carry out the task.
- Delegate only to qualified workers.

## 4. Firefighting

When planning, don't underestimate or fail to anticipate problems. When problems do occur, as they inevitably will, not all of them need to be treated as a "crisis" or true emergency. It is important to learn how to estimate as accurately as possible the true degree of urgency that applies to problems as they arise. Overreaction leads to stress, confusion, wasted effort, and bad judgement. The best way to minimize problems of all kinds is to make realistic time estimates during the planning stage.



## 5. Doing routine tasks

Identify routine or non-essential tasks, then consolidate, eliminate, or delegate as many as possible. This will free up your time to handle the most important supervisory activities.

## 6. Setting deadlines

Set deadlines, then meet them. Setting self-imposed deadlines helps overcome putting things off (procrastination) and indecision.

## 7. Grouping tasks

Plan to perform batches of similar activities at the same time each day to avoid wasteful duplication of your efforts. This not only saves time, it reduces unnecessary interruptions. For example, have a fixed time for making or returning phone calls, or for making notes in your daily log book.

## 8. Maintaining site order

Poor organization of a site's tools, equipment, and materials undermines a supervisor's perceived effectiveness with workers. Materials, tools, and equipment must be kept in an appropriate place known to all workers. Although this may sound simple, not doing it can be a major problem. For example, it isn't fair to blame workers who can't proceed because the tools or materials they need can't be found. When this happens, workers end up wasting their time and that of others waiting for tasks to be completed before they can start their own work.

## 9. Anticipating the unexpected

Being prepared beforehand is always more effective than trying to catch up afterwards. Murphy's Law states that if anything can go wrong, it will. Good planning takes this into account and prepares the supervisor to expect the unexpected.

## 10. Dealing with “the critical few”

The so-called “80/20 Rule” states that in the case of many things happening, the *majority* of effects (80%) are the product of a *minority* of causes (20%). For example, in some cases where the amount of human work (productivity) has been studied, it's been found that a surprisingly small number of employees (around 20%) can be credited for most of the work done. This observation can also apply with respect to problems: 20% of the people may produce 80% of the problems. To give credit where it is due or encourage effort where it is lacking, supervisors need to know when the 80/20 Rule seems to be influencing overall performance.

## 11. Setting objectives

*Management by objectives*—that is, careful planning followed by a determined effort to reach clearly defined goals—always brings better results than just hoping for the best and counting on luck. When setting objectives, remember that it's a common human trait to underestimate the time needed to perform tasks.

## 12. Learning to deal with problems

It's important for supervisors to be able to deal with problems effectively. Many types of mistakes can be made when dealing with problems, but one common and time-consuming error is to treat the symptoms of a problem rather than the real, underlying cause(s).

Information on identifying the causes of problems, and on deciding on how to deal with problems as they arise, is the subject of the next section

## G. Dealing with Problems

Supervisors often find themselves in situations where unexpected events have turned what should be a routine task into a problem that needs to be analyzed and dealt with before work can resume. In the course of a typical workday, a construction supervisor must deal with many problems. Some may require only a few seconds' thought whereas others may demand a major investment in time and effort.

As with managing in general, dealing with problems effectively requires more than intuition or “gut feeling”. Supervisors need to be able to apply a systematic approach to resolving the many problems and conflicts that are a normal part of their job.

One traditional way to address problems states that once you understand a situation, you have four basic options for dealing with it: you can *treat* it, *tolerate* it, *transfer* it or *terminate* it. In practice, however, the solutions often overlap; for example, many problems require some degree of treating along with whatever other options are selected.

The four choices of treating, tolerating, transferring or terminating are discussed in detail later in this section, after the following comments on the problem-solving process.

### 1. The problem-solving process

In cases where it is clear that you have only one option—to *treat* (i.e., solve) the problem, you must clarify as precisely as possible just what the problem is and how to handle it. This requires the application of the *problem-solving process*. This process consists of the following steps.

#### **Step 1. Define the problem clearly and precisely**

This step involves establishing the full details of a problem, not simply producing a general, summary statement of the issue. For example, rather than merely noting that Fred was late for work, you need to be able to provide specific information:

*Fred was late for work on 28 November (15 mins.), 2 December (25 mins.), 6 December (10 mins.), 4 January (15 mins.), and 11 January (7 mins.). He was spoken to about this problem on 3 December, 5 January, and 12 January. During the discussions, he was asked to offer some explanation for his behaviour. He was reluctant to answer this question but conceded there was nothing physically or medically wrong with him. He received verbal warnings on the dates when he was spoken to and a written warning on 12 January. He acknowledged at the meetings that his behaviour was unacceptable and agreed to bring the problem under control. Fred was late again yesterday, 16 January (18 mins.). Fred's past time-keeping record does not show a similar pattern. He was late only twice in the preceding 40 months.*

## **Step 2. Gather additional information relevant to the problem**

Although Step 1 has yielded some information, there are still questions that must be answered to fully understand Fred's behaviour.

*Have processes been changed? Are new materials or equipment being used? Has the work somehow changed? Was Fred's personal work assignment or performance standard modified? If none of these have significantly changed, you have to look further afield. What about his personal life? His supervisor?*

A thorough examination of all the relevant facts is essential in this second phase of solving the problem.

## **Step 3. Identify possible causes**

From the information gathered, list as many potential causes as you can think of. Keep in mind that you are looking for clues that explain the significant change from your normal expectations regarding Fred's behaviour. He is expected to report on time and for the most part he has done so, until relatively recently. Now he's been late six times in nine

weeks. His *actual* behaviour has dramatically shifted from the *expected*. What is causing this shift? Something must account for such a change.

### **Step 4. Select the cause or causes most likely to be responsible**

Perform a mental test on each of the possible causes you have identified. If one possible cause is the result of a specific, changed condition or circumstance, would it make any difference to revert to the previous state of affairs? For example, if Fred's start time has recently been shifted from 8 am to 7 am, would changing it back to 8 am or 7:30 am have any positive effect? Depending on the circumstances, it may be possible to try shifting back and then observing the results. If that doesn't work, you will have to come up with more potential solutions from which to choose.

### **Step 5. Develop solutions to remove the causes**

If necessary, get help to generate possible solutions to remove the cause or causes you have identified. When possible, brainstorm with your colleagues to generate possible answers. There is always more than one way to solve a problem. Change the shift; get Fred a new alarm clock; have a friend phone him in the mornings with a wake-up call; or explain to Fred the ultimate consequences if his behaviour doesn't change. The longer the list of possible solutions, the better. And remember, all parties may be able to benefit from the ideas that emerge from this solution-generating process.

### **Step 6. Weigh the advantages and disadvantages of the proposed solutions**

If Fred is the only person in North America who can do his specialized job, terminating him could be a bad move. Compare the implications and possible consequences of the various proposed solutions, keeping in mind what might be the best move for the crew, for the company, and for Fred personally. It is always worthwhile consulting with others who might be affected by your final decision.

## Step 7. Select the solution you think is best

Once you have compared the advantages and disadvantages of the possible solutions, you must make a final decision that best suits the situation. Few serious problems have simple, perfect solutions that are completely free of disadvantages. Selecting the best answer requires knowledge of all the facts, a creative approach to generating possible solutions, and mature judgement.

## Step 8. Choose a plan of action to implement your decision

Once you've made your choice, you must implement your decision. This step generally requires as much thought and attention as the previous steps.

*What's going to be done and how? Who will carry out the chosen solution, when, and where? If the decision costs money to put into effect, how much will it cost and are the funds available? What other resources might be needed? Is there a time limit for implementing this solution? And, finally, how will you follow up to ensure that the problem has in fact been solved?*

## 2. Four Basic Options for Dealing with Problems

Another way of saying that we are solving a problem is to say that we are treating it. But *treating* the situation (as we did in Fred's case above) is only one of four basic choices in disposing of problems. There are three other "T"s from which to choose: *tolerate*, *transfer* or *terminate*. As the following notes make clear, each of these requires its own implementation and follow-up.

## **1. Treat the problem**

The problem as you have defined it is such that it must be resolved using the step-by-step process outlined above—gathering information, generating possible solutions, settling on the best available plan of action, and implementing it.

## **2. Tolerate the problem**

Many minor problems do not have to be dealt with immediately. In other words, they can be tolerated until the time and resources are available to deal with them. For example, you can put up with a leaking faucet if the plant plumber is engaged in a major line-maintenance shutdown. Depending on the circumstances, some problems can be tolerated for periods of time ranging from a few minutes to several years.

## **3. Transfer the problem**

Problems often have many “owners”. Make certain the problem you’re concerned about belongs on your doorstep. If not, direct it to the person truly responsible for it.

Supervisors should not spend their time solving someone else’s difficulties. Doing so reduces the time they can devote to their own responsibilities and problems. We all like to help our co-workers, but an effective supervisor must learn to set and observe limits.

## **4. Terminate the problem**

Occasionally the only course of action available to a supervisor is to assert his or her authority—“This issue is closed. We’ll proceed as follows . . .” To terminate a problem does not necessarily mean to fire a worker, but it does mean to put an end to the problem in a firm and decisive way. In some cases there may be policies, rules or directives that give the supervisor little choice except to take specified drastic action. In other cases, the supervisor retains full power to make his or her own decision. Sometimes, however, the situation may have deteriorated to the point where only a blunt and forceful approach has any chance of saving the case.

**Activity**

*Please turn to Module 1, Worksheet 1 in your workbook and answer the questions for each of the six scenarios described there. Describe how you would treat, tolerate, transfer or terminate the problems outlined.*

☐ Check

### 3. Summary

To **treat** a problem means to take action to correct the problem.

*For example, you find out that the housekeeping is a mess in the area your crew has left. You treat the problem by directing your crew to go back and clean up and then by ensuring that they understand that cleanup is their responsibility.*

To **tolerate** a problem means that you put up with the problem because it isn't serious enough to warrant fixing right now or because there will be no opportunity to fix it until later.

*For example, you learn that two crews want to use the one available scaffold. Their work isn't critical enough to warrant getting another scaffold, so you tolerate the shortage and schedule other work for one crew until the scaffold becomes available.  
(Note that this solution includes a degree of treating.)*

To **transfer** a problem means to make it someone else's.

*For example, your crew can't work in an area because of another crew's mess. So you transfer the problem by advising the superintendent that **he** has a problem, because you can't order the other crew to clean up. You give your crew other work until someone cleans up the area.*



To **terminate** a problem means to stop whatever is causing the problem. (It does not necessarily mean that you fire the person causing the problem.)

*For example, you find that every order you receive from a certain supplier is late or incomplete. You terminate the problem by switching to a different supplier, thereby ending your business relationship with the firm that was causing the difficulty.*

Here are some points to bear in mind regarding the four “T”s.

- As a supervisor, you can’t **treat** every problem or you’ll quickly burn yourself out.
- You shouldn’t **tolerate** everything because you are paid to solve problems, not just put up with them.
- You can’t **transfer** everything because a lot of problems are rightly yours to fix, not someone else’s.
- You won’t be able to **terminate** every problem, because not every problem can be fixed by stopping something.

But remember. Whatever method, or mix of methods, you choose to deal with a problem you will have to put your choice into action. How supervisors do this differs widely depending on their personalities, their backgrounds, their experience, their skill and their knowledge. It also depends on their leadership style – the subject of the next section.

## H. Leadership Styles

Leadership can be defined as that combination of qualities and behaviours by which an individual attempts to influence others to accomplish certain plans or objectives. This means that *leaders are those who are able to motivate others to produce the results the leader wants.*

The effectiveness of a leadership style depends on a number of factors. Things such as the leader's character and personality, the followers' attitude towards the work, and the situation itself all influence the outcome. Indeed, there is much truth in the old saying that "A leader is only as effective as his or her subordinates want the leader to be."

Two critical aspects influence the effectiveness of leadership. The first is concern for the task to be accomplished. The second is concern for the people who must actually complete the task. At one time it was widely thought that a good relationship with workers was, by itself, the key to motivating workers. Much time and effort was spent trying to build family-type relationships between workers and corporations in order to stimulate production. In recent times, however, thinking has changed. It is now believed that a good relationship between parties is, by itself, not the complete answer. Effective leadership must address the needs of both the task and the people involved.

It has also been found that no single leadership style can produce results every time, under all conditions. Rather, effective supervisors are those who can adapt leadership styles to the situation at hand, while accommodating both the workers and the job to be performed.

In one popular system of classification, five basic types of leadership style have been identified. The names themselves may change from time to time, but the underlying behaviours remain the same.

The five styles are the following:

- The Dictator Style
- The Buddy Style

The Do-Nothing Style  
The Middle of the Road Style  
The Team Style

The behaviours associated with these individual styles are briefly described below.

## 1. The dictator style

With this style, the leader's primary objective is getting the task accomplished. Results and smooth, efficient operation are all that matter. Problems with people are pushed into the background or ignored altogether. Anything not directly advancing the work is viewed as a negative. As a result, people are thought of as little more than machines. The Dictator relies on the primary master-servant relationship best described by..... "I order. You obey."

## 2. The buddy style

The Buddy is the complete opposite to the Dictator. *People* are the major focus in this leadership style. Getting the task completed isn't nearly as important as establishing a friendly, informal relationship with workers. A leader following this style believes work will get done once a bond of friendship and trust is established with workers.

## 3. The do-nothing style

Without much active concern for either people or task, the Do-nothing leader is willing to let things roll along on their own. The attitude is one of seeming indifference that leaves workers free but does little to influence either basic human relationships or the practical accomplishments of the crew. Such leaders are usually not particularly friendly. And in many cases, they are just plain lazy. Workers are left to perform in whatever way they want and must push the system to its limits before the leader intervenes. This type of leader keeps his or her job because management sees just enough results to maintain faith in the individual's basic ability.

## 4. The middle-of-the-road style

Leaders who demonstrate concern for both people and task are considered the Middle-of-the-Road type. They produce reasonable results and display roughly equal concern for relationships with workers and the demands of the project. They strive to meet practical objectives, but also remain interested in promoting workers' morale. Middle of the Road leaders aim for stability, rarely showing high energy, strong emotion, or a marked preoccupation with either people or task.

## 5. The team style

Many favour "Team" leadership as an ideal leadership style. A Team leader displays a major interest in both task and people, but operates on a level several notches above the Middle-of-the-Road style in all respects. On the one hand, such leaders build strong mutual trust and respect with their workers, and endeavor to make them feel that their efforts are important. On the other hand, getting the job done well and on time are also high priorities. These leaders are usually good motivators and strong role models. They personally lead the way for others but, as a member of a team, prefer not to impose their authority. Such individuals actively acknowledge standards and corporate goals and will spend considerable effort to measure up personally. They respect their role, their employer, and their workers. This fosters a genuine team spirit in everyone involved with them.

### Activity

*Please turn to Module 1, Case Study 2 in your workbook. The leadership responses of five supervisors to a situation in which a job needs to be sped up are described. You are asked to identify the leadership style illustrated by each supervisor.*

☐ Check

## 6. A final word on leadership styles

Leadership is about getting people to produce the results the leader wants. The names of the five basic styles may change but the behaviours don't.

Remember:

- A style may work well in one context, but not in another.
- Worker responses to styles differ. When a response is negative, consider changing the style.
- A number of factors can influence the success or failure of a particular style, e.g., relationships, the nature of a task, the demands of a specific situation.
- No single approach guarantees success in a particular situation. On the other hand, a number of different leadership approaches might prove successful in dealing with a specific circumstance.

In addition to leadership style, three other variables significantly affect a leader's effectiveness:

- the relationship between worker and supervisor
- the nature of the task to be accomplished
- the real authority or power that workers believe the supervisor can use.

As strange as it may sound, however, it's important to point out that being a successful *leader* is no guarantee of being a strong *manager*—for all their personal charisma, supervisors may be poor at organizing the work. The reverse is also true: an efficient manager, who faithfully plans, organizes, directs, and controls, may not have obvious leadership qualities. To be truly effective, the supervisor must develop and integrate *all* of these separate but equally important qualities and skills. For most supervisors this is a lifelong task, but one that continues to bring personal and professional satisfaction.

## **Module 2**

### ***Motivation and Communication***

# Table of Contents

A. Background and Introduction .....	51
B. Goal .....	52
C. Objectives .....	52
D. Motivation.....	53
1. Motivators.....	53
2. Demotivators.....	55
3. Motivational techniques .....	58
4. Motivation: Some Closing Comments .....	59
E. Communication.....	60
1. Communication's Importance to Supervisors.....	60
2. The Communication Cycle .....	62
3. Communication Barriers.....	64
4. Types of Supervisory Communication .....	71
5. Improving Communication Skills .....	71
6. Maintaining a Site Logbook.....	74

# Module 2

## Motivation and Communication

### A. Background and Introduction

Motivation and communication are closely linked topics that lend themselves to being treated in a single module. The specific connections between these two subjects will be made clear as you proceed through the material that follows.

Tactics to promote motivation and to ensure effective communication have positive effects on each other. In fact, with both good communication and motivation skills working for you, attempts at supervision that might otherwise be doomed to failure can be turned into successes. Understanding and applying motivational techniques is an important responsibility that rests largely with crew-level supervisors. The same can be said for effective communication. With a clear understanding of how to promote both these important themes, supervisors can successfully fulfil their role of *getting work done through others*.



## B. Goal

The goal of the module is as follows:

*On completion of this module, you will be able to outline a strategy for motivating workers to perform work tasks, and improve your communication effectiveness by using practical techniques for sending and receiving messages.*

## C. Objectives

You will be required to meet several objectives to achieve the goal of this module.

### Part One – Motivation

*Upon completion of Part One you will be able to:*

- 1. Select from a list of motivators the five items most likely to motivate you in performing your work.*
- 2. Select from a list of demotivators the ten items most likely to demotivate you.*
- 3. Identify a key method of motivating workers.*
- 4. Identify five ways motivators can be applied by supervisors.*

### Part Two – Communication

*Upon completion of Part Two you will be able to:*

- 5. List four problems (or barriers) that disrupt effective communication.*
- 6. Describe a six-part process for ensuring effective communication.*
- 7. Give four examples that illustrate how supervisors rely on communication.*
- 8. List five ways supervisors can improve their communication skills in both sending and receiving messages.*
- 9. State three reasons for maintaining a supervisor's logbook.*

## D. Motivation

Motivation encourages people to behave in a certain way. Motivating workers to perform work is one key strategy which supervisors can use to help them achieve project objectives. You will want to be able to understand and apply motivational strategies that will encourage workers to perform the work you want them to do and in the way you want it done.

Libraries have dozens of books about motivation that are available to supervisors who are interested in the topic. To be able to employ motivation as a supervisory tool, however, doesn't necessarily require in-depth research or knowledge. It is sufficient for most supervisors to know two things:

- 1) a motivated worker is a valuable asset; and
- 2) a basic understanding of motivational techniques is usually enough for normal supervisory purposes.

### 1. Motivators

There are many conditions under which motivation can flourish. These motivators, sometimes called job satisfiers, include **conditions** workers find pleasing or satisfying to themselves, and **work** that produces feelings of achievement or accomplishment. Some of the conditions and work elements you may identify with are listed below:

- *Steady employment*
- *Respect as a person*
- *Adequate rest periods or coffee breaks*
- *Good pay*
- *Good physical working conditions*
- *A chance to turn out quality work*
- *Getting along well with others on the job*
- *A chance for promotion*

- *An opportunity to do interesting work*
- *Pensions and other security benefits*
- *Having employee services, such as recreational and social activities*
- *Not having to work too hard*
- *A feeling your job is important*
- *Having a written description of the duties of your job*
- *Being told by the boss when you do a good job*
- *Getting a performance rating so you know how you stand*
- *A large amount of freedom on the job*
- *An opportunity for self-development and improvement*
- *A chance to work without being under direction or close supervision*
- *Having an efficient supervisor*

Conditions and work elements such as those listed above are often absent in construction work and therefore must be specifically created in the workplace. It is an important responsibility of first-line supervisors to create and maintain these work conditions and elements.

**Activity**

To determine how **you** respond to workplace motivators, please do Worksheet 1 for Module 2 in the Workbook.

☐ Check

To motivate employees, supervisors must first reduce or eliminate conditions that create negative feelings in workers. Only then does the introduction of motivators have a reasonable chance of success.

## 2. Demotivators

Things that create negative feelings are called dissatisfiers or demotivators and often share the following characteristics.

- They are plentiful and present in many workplaces.
- They cannot be resolved by workers.
- They are often believed by workers to keep them from meeting their own personal needs or self-interest.
- They are created by many circumstances and parties but often no one wants to admit responsibility when it comes to fixing them.
- They constitute an ongoing obstacle to attempts to promote motivation.

Some demotivators you may have experience are listed below:

- *Disrespectful treatment*
- *Lack of opportunity to accomplish much*
- *Material shortages*
- *Poor tools or equipment*
- *Having to redo work*
- *Poor management attitude*
- *Confusion or poor planning*
- *Lack of recognition*
- *Incompetent personnel*
- *Poor pay*
- *Relying on others*
- *Poor communications*
- *Unsafe conditions*
- *Lack of participation in decision making*
- *Incompetent supervision*
- *Paperwork*
- *Bad weather*
- *Working out of town*

- *Not having clean washroom facilities*

It is important to realize that *it is only when demotivators start disappearing that motivation can begin*. We must therefore accept that the first step in motivating workers is eliminating workplace demotivators.

**Activity**

*To determine how you respond to workplace demotivators, please do Worksheet 2 for Module 2 in the Workbook.*

☐ Check

First-line supervisors are ideally positioned to help eliminate demotivators. And when they do so, they produce a climate in which worker responsibility, growth, recognition and achievement can develop. The result? Workers start to take new pride in their jobs. They produce better quality work and more of it.

But simply removing dissatisfiers is not the only thing that must be done to encourage workers to do more. You can't expect motivational strategies to alter results when workers don't have the fundamental skills required to do the work. Similarly, attempts at motivation probably won't succeed when workers are unfamiliar with the job tasks you want done, or when you haven't clearly communicated your directions to workers. No amount of leadership by a supervisor will result in worker motivation unless demotivators are removed *and the crew are willing and able to do what is being asked of them*. In this regard, the following points are important.

Remember.....

When you want a job done quickly and well, the overall plan and the details of the tasks must be thoroughly communicated to workers

Workers must have the skills and equipment needed to perform the required tasks. (If the basic skills are absent, proper training has to be provided before motivational techniques will have a chance of success.)

Workers will feel motivated to be productive members of the team only when they derive a sense of personal satisfaction from their work

If demotivators persist in negatively affecting worker attitudes, attempts at motivation are doomed to failure.

### 3. Motivational Techniques

Motivational techniques applied by first-line construction supervisors are best kept simple. The following approaches have proven themselves to work well, especially when demotivators are eliminated.

- 1. Communicate** – By communicating effectively, you help workers clearly understand their role and its importance to the project. This can help them develop a sense of commitment to the tasks at hand and can lead to their gaining a sense of achievement when the job is well done.
- 2. Delegate to trusted workers** – Always remember that workers often have many talents. When you delegate tasks to workers, you are telling them that you trust them, their abilities, and their judgement. This builds workers' feelings of self-worth and motivates them to demonstrate that your trust in them is justified.
- 3. Show mutual respect** – People are not machines; they have sensitivities and aspirations. Workers' goals are just as meaningful to them as corporate goals are to the corporation (and you.) Supervisors need to show interest in workers' goals if they expect workers to pay serious attention to theirs. This two-way respect can act as a strong motivator.
- 4. Invite workers to participate** – Whatever your level of competence, never fall into the trap of thinking that you are the sole source of knowledge and skill for getting things done. Make workers partners in decision-making by seeking their input. People who participate in decision-making have a vested interest in the success of the work. When you give workers a sense of "ownership" in workplace events, you will be motivating them and developing your own leadership skills at the same time.
- 5. Recognize your crew members** — No one enjoys having their efforts go unnoticed or unappreciated. Workers are nurtured by praise. Being told that their contributions are appreciated tells them that they count in the workplace. This spurs them on to even greater effort.

## 4. Motivation: Some Closing Comments

A final word on motivation. There is no guarantee that your efforts to motivate your crew will always be successful. Some workers may have been severely demotivated in previous jobs. And there are good, reliable workers who feel no desire to satisfy higher personal needs. For them, a stable workplace, doing the work they know how to do, and being part of a crew are enough. It is possible to raise the motivational level in such employees, but it may not be easy. This is especially true given the fact that they are often only with one employer (or supervisor) for a short time before going on to other jobsites.

To succeed with motivation requires workers who have high personal expectations and who wish to move beyond merely doing the same job day after day in the same way. These are the ones who, over time, will come to recognize that their employer has removed barriers and created fresh opportunities for them, and they will respond accordingly.

The following are some important points to remember:

- Reducing demotivators is an essential first step before introducing motivators.
- The five motivators (communicating; delegating to trusted workers; showing mutual respect; inviting workers to participate; and recognizing your crew members) should be applied gradually as demotivators are removed.
- Motivating requires meeting workers' needs.
- Motivation will not necessarily work with all workers in all circumstances.
- Workers who have been demotivated in previous workplaces need time to respond to motivators. Don't give up too soon.

### Activity

How would you, as supervisor, apply motivators and remove demotivators? Please do Worksheets 3 and 4 for Module 2 in the Workbook.

☐ Check



## E. Communication

There are many ways of defining communication. Some definitions are complex; some are relatively simple. For the purposes of this module we will state simply that *communication is the successful transfer of information and meaning from one person to another.*

There are many different kinds of communication, but the four we will concern ourselves with here are the following:

- verbal (e.g., meetings; telephone conversations; spoken instructions)
- written (e.g., documented procedures; drawings; posters; specifications; faxes)
- visual (e.g., crane or traffic signals; traffic lights)
- body language (gestures; facial expressions; clenched fists; yawns).

These types of communication are different but have at least one thing in common. One way or another they send us messages and, hopefully, transfer information and meaning in the process.

### 1. Communication's Importance to Supervisors

As a current or potential supervisor, why should you be concerned about communicating effectively? Because studies show that communicating is estimated to play a key role in from 50% to 90% of all management tasks. Its importance is highlighted by the number of times it appears in the results of a survey designed to identify the most important activities performed by managers. Obviously, all the activities listed below are important to people with management functions but at a minimum the activities ***highlighted*** involve communication.

The important activities identified included the following:

1. ***Listening actively***
2. ***Giving clear and complete instructions***
3. Accepting your share of the responsibility for problems
4. Identifying the real problem(s)
5. Managing time and setting priorities

6. *Giving recognition for excellent performance*
7. *Communicating decisions to employees*
8. *Communicating effectively (verbally)*
9. Re-ordering priorities if necessary
10. *Explaining work*
11. *Obtaining and providing feedback in two-way communication sessions*
12. *Writing effectively*
13. Preparing action plans
14. Defining job qualifications
15. Effectively implementing organizational change
16. *Explaining the need for cost reduction methods*
17. Preparing and implementing cost reduction methods
18. *Developing written goals*
19. *Justifying the need for new personnel and capital equipment*
20. *Participating in seminars and reading related materials.*

The survey referred to above also tried to identify which supervisory tasks were perceived to produce the most return for the amount of time invested in carrying them out. The items in the list are therefore ranked and listed in **descending** order of importance as judged by supervisors. A quick refresher glance reveals that *listening actively* was judged to be the most rewarding time investment a supervisor could make.

Clearly it is in your best interests to improve your managerial skills in those areas judged to give the highest rate of return on the time and effort invested. In the survey, communication appears directly in well over half the activities identified and is indirectly involved in the rest. As a supervisor, your ability to communicate will probably be your single most important tool—a tool that will have major impact on your success in getting work done through others.

**Activity**

Please turn to the Workbook and do Worksheet 5 for Module 2.

☐ Check

## 2. The Communication Cycle

So we know that communication is important. But how does it work? Well, one method of helping us understand it is to think of it as a process. Here, for the sake of simplicity, it will be thought of as a cycle consisting of six steps.

### *STEP ONE*

Using his or her knowledge and experience a "**sender**" creates a "**message**" in his or her mind.

### *STEP TWO*

The message is put into "**code**," i.e., into speech for verbal communication; into writing for written communication; or into signals or images for visual communication.

### *STEP THREE*

The sender sends or "**transmits**" the encoded message — in speech for verbal communication; by hand, mail, FAX, computer, etc. for written communication; by hand, flag, pictures, images, etc. for visual communication.

### *STEP FOUR*

The receiver "**receives**" the message through one or more of the senses, i.e., hears, reads, or sees it.

### *STEP FIVE*

Using his or her own unique knowledge and experience, the receiver "**interprets**" the message.

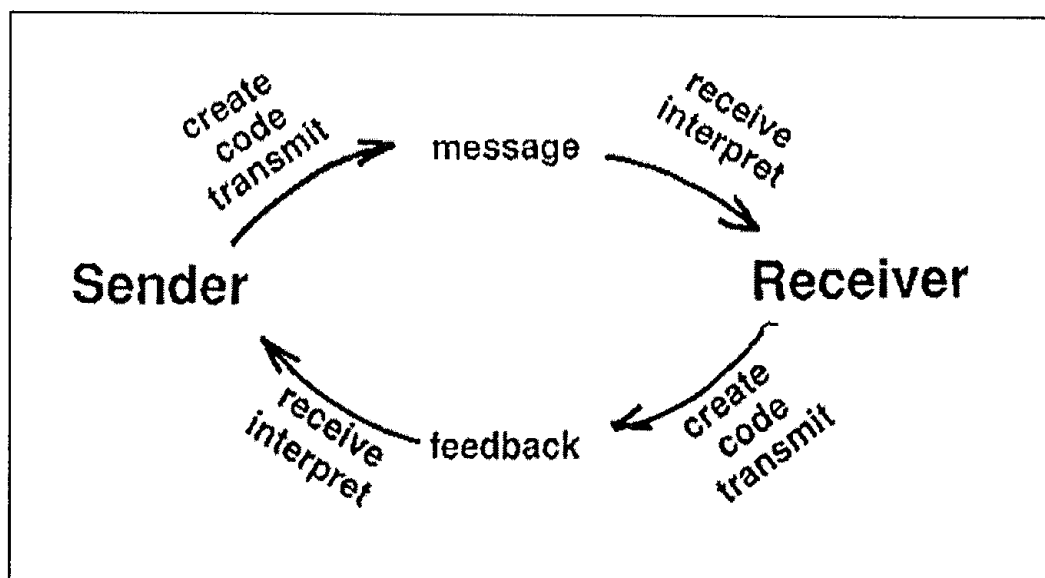
### *STEP SIX*

The receiver provides "**feedback**," i.e., sends a return message or acknowledges that the message has been received and/or acted upon.

You may have noted that up until Step 6 the message can be thought of as a *one-way* communication; a message has gone out but nothing has come back to tell the sender that it was received, understood and acted upon.

When Step 6 is concluded, the sender does receives appropriate feedback, the full communication cycle is completed, and the overall interaction is called *two-way* communication.

The Communication Cycle can be represented diagrammatically as shown below.

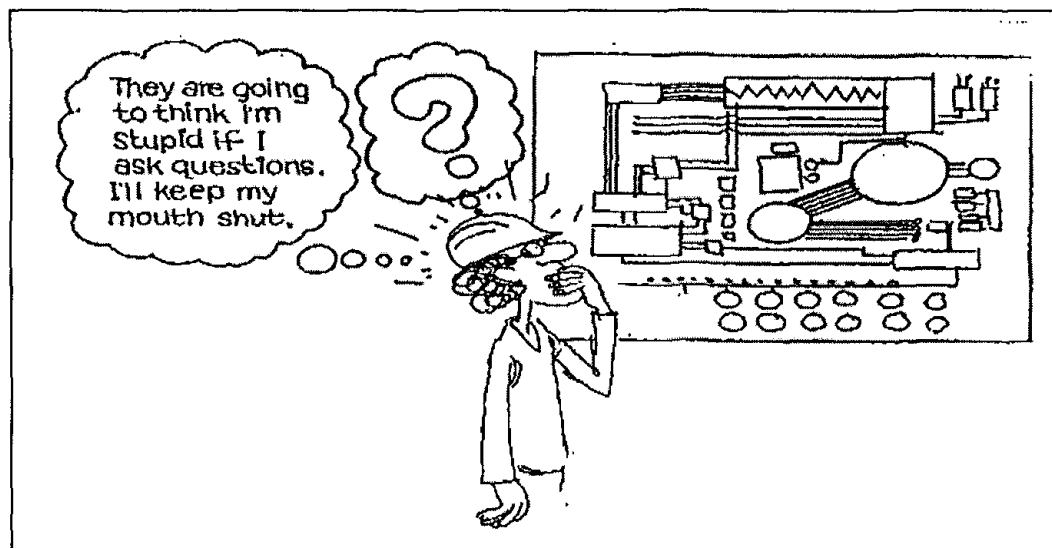


### 3. Communication Barriers

All the steps in the communication cycle are of equal importance. This is because missing or inadequately carrying out any step can lead to a miscommunication or to a breakdown in communication. When a step is missed we can say a **"barrier"** to communication has been set up.

#### EXAMPLE OF FAILURE IN STEP ONE (message not formulated)

An individual doesn't know how to solve a certain problem and, instead of asking a question for clarification, keeps quiet about his or her problem and sends no message, i.e., doesn't ask for help. (Result: no communication.)



An individual doesn't know how to solve a certain problem and, instead of asking a question for clarification, keeps quiet about the problem and neither asks for help or sends a message. The result, no communication.

**EXAMPLE OF FAILURE IN STEP TWO (message not properly encoded)**

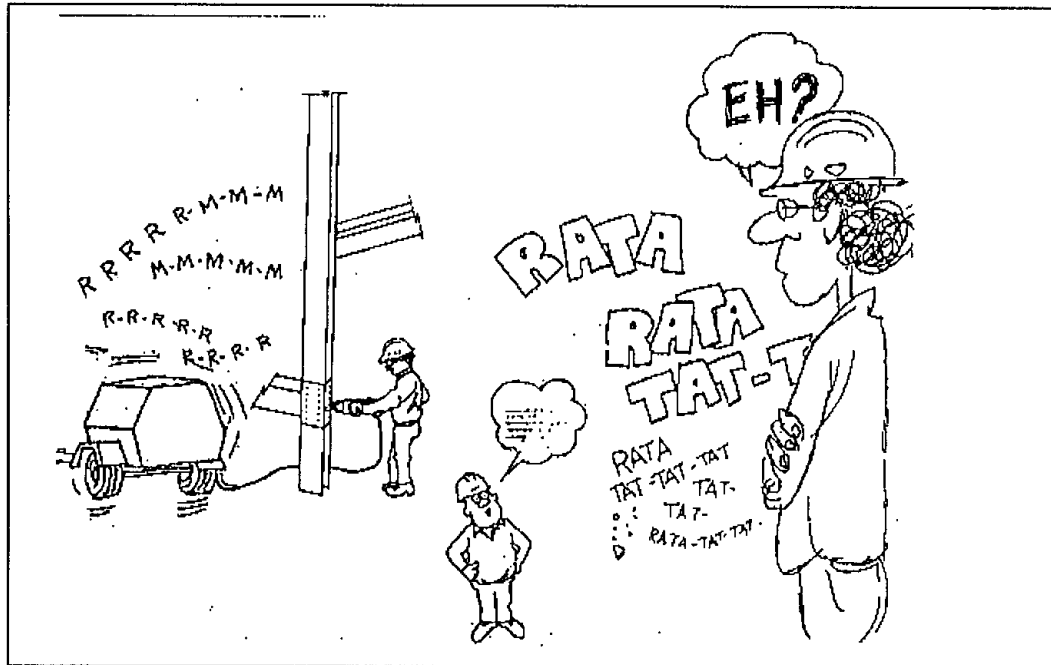
An individual (sender) knows how he or she wants a certain job done but gives instructions (to a receiver) in a language the receiver doesn't understand, or uses words (vocabulary, jargon) which are unfamiliar to the receiver. (Result: miscommunication or no communication.)



**An individual (sender) wants a certain job done but sends instructions (to a receiver) in a language (e.g., English, French, Portuguese) the receiver doesn't understand, or uses words (terminology, jargon) that are unfamiliar to the receiver. The result: miscommunication or no communication.**

**EXAMPLE OF FAILURE IN STEP THREE (message not properly transmitted)**

One worker speaks to another, but underestimates the noise levels in the environment and doesn't speak loudly enough for the receiver to hear the message properly. (Result: miscommunication or no communication.)



**One worker speaks to another but underestimates the noise levels in the environment and doesn't speak loudly enough for the receiver to hear the message properly. The result, miscommunication or no communication.**

**EXAMPLE OF FAILURE IN STEP FOUR (message not properly received)**

A worker who is working in a noisy environment does not clearly receive a message and misinterprets a key part of it, or ignores it. (Result: miscommunication or no communication.)



**A worker in a noisy environment does not clearly receive a message and misinterprets a key part of it, or ignores it. The result, miscommunication or no communication.**



**EXAMPLE OF FAILURE IN STEP FIVE (message misinterpreted)**

During orientation, a new worker hears typical workplace or job-specific "jargon" and misinterprets the meaning of certain words. Without previous knowledge of the workplace, the receiver thinks of the ordinary meaning of the words being used rather than their job-specific or trade-specific meaning. (Result: miscommunication.)



**During orientation, a new worker hears typical workplace or job-specific jargon and misinterprets the meaning of certain words. Without previous knowledge of the workplace, the receiver thinks of the *ordinary* meaning of the words rather than just their *job-specific* or *trade-specific* meaning. The result: miscommunication.**

EXAMPLE OF FAILURE IN STEP SIX (uncertainty as to whether message has been received and properly acted upon)

A worker receives a message and understands it, but doesn't act on it or acknowledge receipt of it (i.e. provides no feedback.) This leaves the sender in the position of not knowing whether the message has been received, understood and/or acted upon. (Result: incomplete communication and/or a possible miscommunication.)



**A worker receives and understands a message, but doesn't act on it or acknowledge receipt of it (that is, provides no feedback). This leaves the sender not knowing whether the message has been received, understood, or acted upon. The result, incomplete communication or a possible miscommunication.**

As shown above, barriers can happen at any time during the communication cycle *and they can affect both senders and receivers*. Commonly encountered barriers include:

- poor message-sending skills
- poor comprehension skills
- inattentiveness
- preconceived notions
- unreceptive emotional states
- excessive message lengths
- excessive message detail
- poor listening skills
- biases and prejudices

**Activity**

Please turn to the Workbook and do Worksheet 6 for Module 2.

☐ Check

## 4. Types of Supervisory Communication

There are many ways that supervisors communicate. You can probably think of any number of them. But to keep you thinking about the things you do that involve communications, consider the following examples:

- giving instructions
- training
- providing advice
- reading messages
- sending memos
- reading specifications
- reading blueprints
- listening to instructions
- providing feedback
- discussing matters at meetings.

## 5. Improving Communication Skills

In construction, workers and supervisors must constantly adapt to a changing environment. In doing so, they are continually exchanging information, ideas, requests, plans, and proposals. The one essential ingredient in all these activities is communication. If you are really serious about improving your communication skills you must think about developing both your ability to *send* and to *receive* messages.

Here are a few practical tips for *sending* oral messages effectively.

- Prepare thoroughly.
- Identify your communication objective.
- Know your topic.

- To ensure your message is complete, make sure you cover the “five Ws and one H” (i.e., make sure your message covers the *who*, *what*, *when*, *where*, *why*, and *how* of the communication)
- To make your message easy to understand, apply the **KISS** principle (**K**ee **I**t **S**hort & **S**imple)
- Be yourself. (Avoid pretending to be someone you are not.)
- Avoid talking up or down to people.
- Use suitable words in a courteous manner.
- Watch for the signals sent by body language.
- Establish and maintain eye contact, but don’t threaten your communicator by continuously maintaining locked eye contact.
- Don’t bluff; if you don’t know, say so.
- Convey one message at a time.
- Solicit feedback and listen to it attentively.
- Keep distractions for listeners to a minimum.
- Identify barriers to communication and do what you can to minimize them.
- Control your temper.
- Speak loudly enough to be heard, but not loudly enough to be irritating.

Here are some tips for **receiving** messages (listening).

- Avoid interrupting; wait for breaks or the end of the message to raise questions.
- Make judgments only after hearing the complete message.
- If necessary, verify the message received by rephrasing it in your own words.
- Ensure understanding with honest, direct, and specific questions.
- Control personal mannerisms that may distract you from receiving effectively.
- Minimize communication barriers.
- Never jump to conclusions; listen to the whole message before making up your mind.
- Evaluate the message, not the sender.
- Limit the amount you say to what is necessary.
- Focus on what the person is saying.
- Listen for whole ideas.
- Keep listening as the message progresses; if you stay focussed on one point only, you won’t hear the whole message.

As a supervisor you will have to use written as well as verbal communication. Consider the following tips for improving *written* messages.

- Begin by organizing your objectives and the ideas to be conveyed.
- Be brief and to the point.
- Draft an outline to work out the best sequence for your ideas.
- Visualize your reader in order to choose appropriate language, vocabulary, style, and structure.
- Write as if you were talking, then rewrite to ensure clarity, conciseness, correctness, and completeness.
- Correct all errors found during your final edit and always forward a clean copy of the message.
- Use short sentences (16 to 20 words) and brief paragraphs that address one topic at a time.
- If possible, type or print messages and reports rather than writing them by hand.
- When selecting words, aim for the *precise* and *specific* rather than the *vague* or the *general* [for example, use *house* rather than *structure*; *wire stripper* rather than *tool*].
- Start thinking of words as specialized “tools” for getting the right meaning across, then pick the right tool for the job.
- Use familiar, easily understood words.

**Activity**

Please turn to the Workbook and do Worksheet 7 for Module 2.

☐ Check

## 6. Maintaining a Site Logbook

One important form of written communication is the logbook. A site logbook, sometimes called a journal, can be an invaluable asset that is well worth the effort required to keep it up-to-date.

Why should you keep a log? There are a number of good reasons.

- It establishes a personal and corporate record of jobsite events.
- It documents due diligence actions on site [i.e., verifies that what was legally required to be done was in fact done].
- It offers potential documentary evidence in case of legal disputes.
- It provides a suitable location for notes, memos and follow-up reminders.

Properly maintaining a log is one of those time-consuming tasks that may be carried out for years without any apparent benefit. In fact, in most instances it will probably serve mainly as an historical record of little interest to others, or perhaps even to yourself. But there may be times when a log is the only thing that can save a construction supervisor from personal liability or legal action, for example during an accident investigation. When everyone has a different version of past events and people forget what was said or done at crucial times, a good log may be the best, and possibly the only, evidence a supervisor can offer in his or her defense.

Keeping the log current and in good order takes only a few minutes each day. In general, a supervisor should document routine events briefly, but record major occurrences in considerably greater detail. When keeping a logbook, keep the following in mind.

- Use a bound book with no missing or removed pages.
- Pages within the book must be consecutively numbered.
- Entries should always be made in ink or in ballpoint pen.
- Every line should be written on, so that the log cannot be altered later on.
- When an entry does not fill a line, a solid line should be drawn through the empty space from the last entered word to the end of the line.
- If the entries do not fill a page, the remainder of the page should have a large “Z” drawn through the space from the last filled line to the page bottom.

- Mistakes should never be erased; they should be crossed out by a line drawn through them. This change should be initialed by the author.

And remember that information recorded in the log should meet the following minimum requirements.

- Each entry should identify the jobsite, the time and date of entry of the item in the logbook.
- Where weather is a factor in the daily routine or during a crucial event, conditions should be briefly described.
- Entries for routine activities or special events should include identification of the people involved and particular tasks engaged in.
- For major occurrences, general information should be supplemented with additional details, including:
  - information on events that could be beneficial to the job or the company,
  - information on events that could have adverse effects or cause additional problems,
  - decisions reached or imposed affecting a crew's activities,
  - actions taken by the supervisor who is author of the log.
- Notes, memos, and the log author's reminders for personal follow-up should be recorded as the final entries for each working day. [This makes the information easy to find later as action is considered or taken. The supervisor can then cross the items off as they are acted upon.]

Examples of these points are contained in the logbook entries on the following pages.



DATE/PLACE 6 Aug 98 - Ivory Towers  
Monday - 7 mechanics, 1 apprentice  
on site. 3 mechanics on 15th floor  
working on duct work, remainder  
in penthouse, mechanical room.  
9 A.M. Office called to say P.O. for  
parking level piping has been  
received. Proceed A.S.A.P.  
11 A.M. Attended general's site mtg.  
All work on parking levels must  
be completed by 1 Sep 98. Materials  
currently stored on the two levels  
to be removed by 8 AUG 98. Told super  
we would be OK provided storage  
materials are gone by 8th.  
1:20 P.M. Ordered two extra rolling  
scaffold from shop for Thurs. start  
(noon?) on the parking levels.  
3:45 P.M. Jimmy nicked himself  
with his knife. Index finger left  
dangle, but nothing serious. +  
Treated him from the first aid box.  
Antiseptic cream, ~~gauze~~ <sup>Rob</sup> gauze  
pad taped in place. He said he  
was pushing a dull knife to.

91

DATE/PLACE 6 Aug 98 Cont'd

finish a cut. The knife slipped and  
~~he~~<sup>he</sup> caught him where he was  
 holding the piece of foil board. He  
 went back to work on his own as  
 soon as he finished F.A.

7 Aug 98 - Tuesday Ivory Towers

7 mechs, 1 apprentice on site. 3 mechs on  
 15th floor duct work, remainder in  
 penthouse mech. room.

8:30 A.M. Changed dressing on Jimmie's  
 finger. No infection, closed up nicely.

10:30 A.M. Both fitters & drywall have crews  
 cleaning up storage in parking. Looks  
 good for a Thursday start.

2 P.M. M.A.L. inspector on site. We're  
 OK, but general has been ordered to  
 set up a safety committee for site.

4 P.M. - Call office tomorrow about  
 Bill's pay. 2 hours short last week.  
 Last week.

52

DATE/PLACE 8 Aug 98 - Wednesday  
Honey Towers. 7 Mech. 1 apprentice.  
2 mechanics on 15th floor duct work.  
3 mech penthouse equip. room.  
1 mech (Bill Smith) + 1 apprent. setting  
up material & scaffolds on parking  
levels.

8:00 A.M. - Changed dressing on Jim's  
finger. It looks fine.

9:00 A.M. - Called office about Bill's pay.  
It will be straightened up on this  
week's cheque.

10:30 A.M. Super informed me the  
parking levels will be clear by 2:30  
this afternoon. Agreed to have 4  
men start tomorrow <sup>ROB</sup> morning.  
He asked if I could supply someone  
to sit on the safety committee that is  
being set up (the mtg is week -  
about an hour) First <sup>ROB</sup> First mtg  
next Monday 9:30 at site office. I  
agreed to have someone attend.

2:15 P.M. - Steel Metal foreman says  
all duct work in penthouse will  
be finish by Friday (10 Aug 98).

93

## **Module 3**

### ***Legal Responsibilities***

# Table of Contents

A.	Background and Introduction .....	83
B.	Goal .....	84
C.	Objectives .....	84
D.	Basics of Health and Safety Legislation.....	85
1.	Purpose of the OHSA .....	85
2.	Internal Responsibility System .....	86
3.	Application of the OHSA .....	86
4.	Reading the Act and Ontario Regulation 213/91 .....	87
a.	Parts of the Act and Regulation 213/91 .....	87
b.	Sections, Subsections, Clauses and Sub-clauses.....	88
c.	Citing the Act and the Regulations.....	89
d.	The Legal Verbs “shall” and “may” .....	90
e.	The words “and” and “or” .....	91
f.	“Qualifying” Words .....	92
(i)	“As Prescribed” .....	92
(ii)	“Subject to” .....	93
(iii)	“Notwithstanding” or “Despite” .....	94
5.	Workplace Parties.....	95
a.	Workplace .....	95
b.	Constructor.....	95
c.	Employer.....	95
d.	Supervisor .....	96
e.	Worker .....	96
f.	Competent Person.....	96
g.	Competent Worker .....	97
E.	Duties and Responsibilities.....	99
1.	Employers (s.25-26) .....	99
2.	Constructors (s.23) .....	99
3.	Supervisors (s.27).....	100
4.	Workers (s.27).....	100
F.	Due Diligence .....	102
1.	Definition .....	102
2.	What are the standards for due diligence?.....	102
a.	Standard of potential harm.....	103

b. Available alternatives .....	103
c. Likelihood of harm .....	103
d. Degree of knowledge or skill expected .....	104
e. Extent to which causes are beyond the control of the accused .....	104
3. Dispelling four “due diligence” myths .....	104
4. Must contractors expect the unexpected? .....	105
5. So what does this all mean for you? .....	106
G. Rights of Workers .....	107
1. The Right to Know .....	107
2. The Right to Participate .....	107
3. The Right to Refuse .....	107
4. The Right to Stop Work .....	108
5. A Final Word About Rights of Workers .....	109
H. Health and Safety Representatives and JHSC Members .....	110
1. Health and Safety Representatives .....	110
2. Joint Health and Safety Committees .....	111
I. Enforcement of the Act .....	112
1. Inspectors .....	112
2. Inspector’s Orders .....	113
a. Compliance Orders .....	113
b. Stop-Work Orders .....	114
3. Penalties under the Act .....	114
J. Other Health and Safety Legislation .....	115

Appendix A: References in Occupational Health and Safety Act and the Regulation for Construction Projects (O. Reg. 213/91) re Competent Person/Worker .....	116
Appendix B: Reprint of “Health and Safety Law” .....	121

# Module 3

## Legal Responsibilities

### A. Background and Introduction

The *Occupational Health and Safety Act* (OHSA) governs health and safety in Ontario workplaces and assigns duties to different categories of workplace personnel. Regulations written under the OHSA provide the details that flesh out the generalities of the Act. Being familiar with the legislation is necessary for managers, supervisors and workers. They can then provide a safe workplace and prevent legal liabilities, that is, prevent themselves from being obligated under the law for behaving illegally.

Supervisors, specifically, have a duty to:

- take every precaution reasonable in the circumstances for the protection of workers
- ensure that workers comply with the Act and with Regulations written under the Act
- ensure that workers use protective devices and clothing as required by the employer
- advise workers of actual or potential health and safety hazards in the work
- ensure that all conditions set by the Act and regulations with respect to supervisors are complied with.

This module introduces the OHSA and Regulations and discusses requirements related to the major legal responsibilities of a supervisor and other workplace parties.

## B. Goal

The goal of the module is as follows:

*Upon completion of this module you will be able to describe the major legal responsibilities of a supervisor and other workplace parties.*

## C. Objectives

You will be required to meet several objectives to achieve the goal of this module.

*Upon completion of Part One you will be able to:*

- 1. Name four workplace parties on construction projects.*
- 2. Identify the two major pieces of legislation controlling health and safety on construction projects.*
- 3. In descending order of importance, name the four consecutive levels of organization which are used in the OHSA and Regulation 213.*
- 4. Describe three duties each of employers, constructors, supervisors, and workers, and identify the respective sections in which they appear in the OHSA.*
- 5. List three rights of a worker.*
- 6. Identify the conditions which require (a) a health or safety representative and (b) a Joint Health & Safety Committee on construction sites.*
- 7. List two examples of conditions or activities in which a supervisor interacts with a Health and Safety Representative.*
- 8. List three examples of conditions or activities in which a supervisor interacts with a Ministry of Labour inspector.*
- 9. List four rights of a Ministry of Labour inspector.*
- 10. Identify the maximum penalties for persons and for corporations under the Act.*
- 11. List two pieces of health and safety legislation other than the OHSA and Regulation 213 that may apply to construction projects.*



## D. Basics of Health and Safety Legislation

There are two main pieces of legislation which govern health and safety in Ontario. The first is the Occupational Health and Safety Act (referred to later as OHSA, or the Act) and the second is the Regulation for Construction Projects (often referred to as Ontario Regulation 213/91 or O.Reg 213/91.) Some other regulations, such as the WHMIS (Workplace Hazardous Materials Information System) Regulation, also affect health and safety in Ontario. Taken together, the Act and the Regulation(s) constitute health and safety law.

The Act sets out the principles of the law and assigns **general** rights and duties to individuals and organizations (for example, workers, employers, supervisors, constructors, owners and the Ministry of Labour).

The Regulations state how the Act will be applied. In fact, regulations are a detailed set of rules, which explain how the general statements and performance standards described in the OHSA must be applied. For example, they contain details about how to use personal protective equipment (PPE), fall protection and so on.

### 1. Purpose of the OHSA

The OHSA has been written to achieve three main objectives. These objectives or purposes are:

- To provide a safe and healthy workplace.
- To assign responsibility to various people working in the workplace (i.e., to the different *workplace parties* – see Section 5 below for full description).
- To promote the active participation of all workplace parties in the achievement of the first of the three objectives (i.e., to provide a safe and healthy workplace).

## 2. Internal Responsibility System

The Act relies on a concept called the Internal Responsibility System (IRS) to achieve its purposes. The IRS is based on the principle that the workplace parties themselves are in the best position to identify health and safety problems and to develop solutions for them.

Under the IRS, employers and workers *share* responsibility for health and safety in the workplace. And, to ensure that the system works effectively, the Act describes interlocking sets of duties, obligations and rights for different workplace parties.

Interlocking responsibility means that there must be good communication between employers and workers if the system is to be effective. The main forum for such communication is the health and safety committee.

## 3. Application of the OHSA

The OHSA and the Regulations cover almost every worker, supervisor, employer and workplace in Ontario. Also covered are workplace owners, constructors and suppliers of equipment or materials to workplaces that are covered by the Act.

The Act does *not* apply to:

- Work done by an owner or servant in or around a private residence
- Farming operations
- Workplaces under federal jurisdiction (i.e., under the authority of the Government of Canada.)

*Note: some workplaces under federal jurisdiction may voluntarily follow provincial legislation.*

## 4. Reading the Act and Ontario Regulation 213/91

Acts and Regulations are legal documents and, as such, there are established rules about how they are written, how they are read, what certain words mean and about how parts are identified or “cited.”

The information contained below will help you become familiar with all these aspects of Ontario health and safety law.

### a. Parts of the Act and Regulation 213/91

To help readers find different types of information, the Occupational Health and Safety Act is divided into 10 main *Parts*. They are as follows:

- I. Application
- II. Administration
- III. Duties of Employers and Other Persons
- IV. Toxic Substances
- V. Right to Refuse or Stop Work Where Health or Safety in Danger
- VI. Reprisals By Employer Prohibited
- VII. Notices
- VIII. Enforcement
- IX. Offences and Penalties
- X. Regulations

(Note: I, II, III, IV, V, VI, VII, VIII, IX, X are Roman numerals for 1, 2, 3, 4, 5, 6, 7, 8, 9, 10. Roman numerals in capital letters and in small letters e.g., (i), (ii), (iii), (iv) are used for numbering in many legal documents.)

The Regulation for construction projects (Ontario Regulation or O. Reg. 213/91) contains 5 main Parts. They are:

- I. General
- II. General Construction
- III. Excavations
- IV. Tunnels, Shafts, Caissons and Cofferdams
- V. Work in Compressed Air

## b. Sections, Subsections, Clauses and Sub-clauses

To refine the information even further, *Parts* of Acts and Regulations are subdivided into *sections* (and then *subsections*, *clauses* and *sub-clauses* where necessary.) This type of organization allows information to be broken down into finer and finer detail. In the OHSA, for example, the ten main Parts are broken down into 70 sections in all, most of which are subdivided into any number of subsections, clauses and sub-clauses.

The format (i.e., numbering) used in Acts and Regulations to identify sections, subsections and so on is as follows:

Sections	<b>1</b>	(in bold writing at the left side of the page)
Subsections	(1)	(indented)
Clauses	(a)	(indented further)
Sub-clauses	(i)	(indented further still)

### Activity

Please find your copy of the Regulation for Construction Projects (O. Reg. 213/91.) You will find this in the little green book in your package materials.

In the second part of the book (i.e., after the first bunch of yellow pages) look up section 137, subsection 9, clause (a), sub-clause (i). You will find this on page R77, starting about one quarter of the way down the page.

(Note: the “R” in front of the 77 stands for “Regulation.” This means that by looking at how the page numbers are written you will always know whether you are in the “Act” or the “Regulation” part of the green book.)

☐ Check

If you have correctly located the section described in the box above it should read as follows:

137. (9) A suspended platform, suspended scaffold or boatswain's chair that is capable of moving either horizontally or vertically shall have,
- (a) supporting cables,
  - (i) that are vertical from the fixed support or outrigger beam

Notice that it is crucial that you read **all** the parts (subsection, clause and sub-clause) strung together to get the clear meaning of the document. You can think of the subsections, clauses and sub-clauses as working together to express one idea in ever-increasing detail. Reading them in consecutive order makes them come across as one paragraph..... like that shown below:

*A suspended platform, suspended scaffold or boatswain's chair that is capable of moving either horizontally or vertically shall have supporting cables that are vertical from the fixed support or outrigger beam*

**Notice that it is always a good idea to look at subsection 1 of whatever section you are reading.** Doing so will usually throw some light on the meaning of the *subsection* you are actually concerned with. For example, in this case you are concerned about subsection 9. But subsection 1 states the following:

137. (1) Every suspended platform, suspended scaffold and boatswain's chair shall meet the requirements of this section.

This means that the requirements of subsection 9 are not the only ones that apply to the suspended platform, suspended scaffold or boatswain's chair you are concerned with. It states clearly that the equipment must meet **all** the requirements of section 137 (i.e., all of subsections 2 to 11).

### c. Citing the Act and the Regulations

As discussed above, it's important to know how to read the legal language in Acts and Regulations. But in order to communicate successfully, it's also important to know how to refer others to parts of an Act or Regulation. This is called *citing* the Act, or giving a *citation*.

Let's say you wanted to refer someone to the information about suspended platforms you looked at in the previous section. That information was contained in section 137, subsection 9, clause (a), subclause (i) of O. Reg. 213/91. Since citations are given in short form, all you have to do is use "s." as the short form for the word "section", then follow that using the appropriate numbers, letters and parentheses that identify the section, subsection, clause and subclause you're concerned with. For the example above, the citation turns out to be:

s. 137 (9) (a) (i)

If you wanted to refer someone to section 44, subsection (1), clause (a) of the OHSA, the citation would read:

s. 44 (1) (a)

#### d. The Legal Verbs "shall" and "may"

When trying to figure out the meaning of Acts and Regulations it is important that you understand the difference between the meanings of the verbs "shall" and "may" as they are used in legal documents.

In legal writing "shall" usually means *must*. An example is shown in s. 23 (1) (a).

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

This means that.....

*A constructor **must** ensure on a project undertaken by the constructor that the measures and procedures prescribed by this Act and the regulations are carried out on the project;*

Legal writers use the word "may" to indicate that a person "*has a right to*" do something. Such persons don't have to do the "thing," but they may if they choose to. An example of this is shown in s. 45 (1):

- 45.** (1) A certified member who has reason to believe that dangerous circumstances exist at a workplace **may** request that a supervisor investigate the matter and the supervisor shall promptly do so in the presence of the certified member.

This means that a certified member is not required to, but *may*, if he or she wishes, request “that a supervisor investigate the matter.” [It’s worth noting that if such a request is made, the supervisor has no choice but to investigate as the section states that the “supervisor ***shall*** promptly do so.”]

### e. The words “and” and “or”

The words “*and*” and “*or*” also have special significance in legal writing.

When “*and*” is used between parts of legislation it means that **all** the conditions mentioned *must* apply. For example, take your little green book and look up s. 23 (1) in the OHSA. It should look like this:

23. (1) A constructor shall ensure, on a project undertaken by the constructor that,
- (a) the measures and procedures prescribed by this Act and the regulations are carried out on the project;
  - (b) every employer and every worker performing work on the project complies with this Act and the regulations; and
  - (c) the health and safety of workers on the project is protected.

Notice the word “*and*” between clauses (b) and (c). This “*and*” means that a constructor must ensure that **all three** of the items mentioned in (a), (b) and (c) are done. Not just (a) or (b) or (c), or any other combination of (a), (b) and (c), but **all three** of the items must apply.

When “*or*” is used between parts of legislation it means that **only one** of the conditions mentioned *must* apply. For example look up s. 43 (3) in the OHSA part of the green book. You will find it looks like this:

43. (3) A worker may refuse to work or do particular work where he or she has reason to believe that,
- (a) any equipment, machine, device or thing the worker is to use or operate is likely to endanger himself, herself or another worker;
  - (b) the physical condition of the workplace or the part thereof in which he or she works or is to work is likely to endanger himself or herself; or
  - (c) any equipment, machine, device or thing he or she is to use or operate or the physical condition of the workplace or the part thereof in which he or she works or is to work is in contravention of this Act or the regulations and such contravention is likely to endanger himself, herself or another worker.

In this case, notice the word “*or*” between clauses (b) and (c). This “*or*” means that **only one** of the conditions mentioned in (a), (b) and (c) need apply for the worker to have sufficient reason to refuse work. They don’t all have to apply, as would be the case if the word “*and*” had been used; there only has to be one for a worker to have sufficient reason to refuse.

#### f. “Qualifying” Words

Some sections of the Act or the Regulations have phrases that “limit” or “qualify” the requirement(s) of a section(s). Typically, the words “**As prescribed**”, “**Subject to.....**”, or “**Notwithstanding.....**” are used. (Recently, the word “*despite*” has been substituted for “*notwithstanding*” in some instances.) Whenever these words are encountered it is vitally important to read all the sections and or subsections that have a bearing on the subject you are interested in so that you will understand exactly how the Act or the regulations apply.

##### (i) “As Prescribed”

In the OHSA you will often find the term “*as prescribed*” as part of a section. This means “*as spelled out in the regulations.*”



The Act deals with *generalities* of occupational health and safety. The regulations deal with occupational health and safety *specifics*. It is the specifics contained in the regulations that the phrase “as prescribed” refers to when used in the Act.

(ii) “Subject to”

The phrase “*subject to.....*” means “*depending on what is described in another part of the Regulation.*” So when a section starts off with “subject to”, it means that in addition to the requirements that are described first, *additional or different* requirement(s) may apply, depending on conditions.

An example is contained in Part III of the Regulation for Construction Projects (O. Reg. 213/91), Support Systems, section 235. This section states:

- 235. (1) Subject to subsection (2),** a support system shall consist of,
- (a) timbering and shoring that meets the requirements of subsection 238 (2), if no hydrostatic pressure is present in the soil, and if the width and depth of the excavation are equal to or less than the width and depth indicated in the Table to section 238;
  - (b) a prefabricated support system that complies with sections 236 and 237;
  - (c) a hydraulic support system that complies with sections 236 and 237, or
  - (d) an engineered support system that complies with section 236 O. Reg. 213/91, s. 235 (1).

If you just read subsection (1) you would think that your support system must simply meet requirements (a) to (d) above. But subsection (1) states that (a) to (d) apply ***subject to subsection (2)***. Reading subsection (2) you would learn that:

- 235. (2)** Where the excavation is a trench and the depth exceeds six metres or the width exceeds three metres, the support system shall consist of an engineered support system designed for the specific location and project.

Subsection (2) therefore tells you that when digging a trench which is greater than six metres deep or more than three metres wide, building a support system that meets clauses (a) to (d) of subsection 1 *is not enough*. For this type of situation you need an *engineered support system designed for the specific location and project*.

(iii) “Notwithstanding” or “Despite”

The term “*notwithstanding*” (recently replaced by the word “*despite*”) means “*despite what is said elsewhere*.” It also means that even though the Act (or regulation) may describe a general requirement that normally applies, under certain conditions some different and possibly conflicting requirement(s) may apply.

For example, section 9 (3.1) of the Act states:

9. (3.1) **Despite** subsections (1) and (2), the Minister may, by order in writing, permit a constructor or an employer to establish and maintain one joint health and safety committee for more than one workplace or parts thereof, and may, in the order, provide for the composition, practice and procedure of any committee so established.

If you had simply read subsections 9(1) and 9(2) you would think that you knew the general requirements for establishing joint health and safety committees under the OHSA. But in reading subsection 9 (3.1) you would learn that the Act allows the Minister to override the requirements of subsections 9 (1) and 9 (2) “despite” or “notwithstanding” what they say.

To close this part on “Qualifying Words,” always remember to consider any information referred to in subsections containing the words “as prescribed,” “subject to,” “notwithstanding” or “despite.” This is essential if you are to get the full meaning of the Act or the regulations.

**Activity**

To test your knowledge of the structure of the Act and Regulation 213/91, please do Worksheet 1 for Module 3 in your Workbook.

☐ Check

## 5. Workplace Parties

You now know how the Act and the regulations are put together structurally and about how the verbs “shall” and “may,” and the words “and” and “or,” are used to produce specific meanings.

It is also important to recognize that other words are often used in specific ways in legislation. When this is the case they are normally *defined* in the legislation so that there is no misunderstanding regarding their meanings. The terms “workplace” and “workplace parties” (i.e., *employers, workers, constructors* and so on) are used specifically in health and safety legislation and are briefly described below. For their exact definitions see Section 1(1) of the OHSA.

### a. Workplace

A workplace is any place in, on, or near to where a worker works. The test is, “if the worker is being directed and paid to be there, or to be near there, then that place is a workplace.”

And what about the people working in the workplace? The Act refers to six different workplace parties. They are:

- Constructors
- Employers
- Supervisors
- Workers
- Competent persons
- Competent workers

Each of these is described below.

### b. Constructor

A constructor is generally the person (or company) who has overall control of a project.

### c. Employer

An employer is a person (or company) who employs one or more workers.

#### **d. Supervisor**

A supervisor is a person who has charge of a workplace or authority over any worker.

#### **e. Worker**

A worker is a person who is paid to perform work or supply services.

#### **f. Competent Person**

The term “competent person,” as defined in the OHSA, is as follows:

- 1** (1).....“competent person” means a person who,
- (a) is qualified because of knowledge, training and experience to organize the work and its performance,
  - (b) is familiar with this Act and the regulations that apply to the work, and
  - (c) has knowledge of any potential or actual danger to health or safety in the workplace...

(Note: when you wish to know exactly what a term like “competent person” or “supervisor” means you can always look the word up in the Index of the Act (or of the regulations) to find out where the definition is located. For “competent person,” see the Index of the OHSA on page A-3.)

There is only one place in the OHSA where the term *competent person* is used. Section 25 (2) (c) states:

- 25** (2).....Without limiting the duty imposed by subsection (1), an employer shall,
- (c) when appointing a supervisor, appoint a competent person...

Because of the definition of competent person, this means that the employer must appoint someone who:

- is qualified because of knowledge training and experience to organize the work and its performance
- is familiar with the Act and the regulations that apply to the work, and
- has knowledge of any potential or actual danger to health and safety in the workplace.

Some references to the term competent person made in Regulation 213/91 are the following: s. 14 (5), s. 265 (3), s. 266 (3), s. 266 (12)..... Appendix B4.

## **g. Competent Worker**

The term “competent worker” is defined, not in the Act, but in Regulation 213/91, the Regulation for Construction Projects. The definition is almost identical to the definition of competent person and is shown below.

- 1 (1) “competent worker”, in relation to specific work, means a worker who,
  - (a) is qualified because of knowledge, training and experience to perform the work,
  - (b) is familiar with the *Occupational Health and Safety Act* and with the provisions of the regulations that apply to the work, and
  - (c) has knowledge of all potential or actual danger to health or safety in the work...

(To find the location of the definition, see the Index of the Regulation for Construction Projects, pages B-4, 5, and 6.)

There are numerous places in the Regulation for Construction Projects where both the terms *competent person* and *competent worker* are used. Some references to the term competent worker made in Regulation 213/91 are the following: s. 60 (2), s. 62 (5), s. 106, s. 154 (1), s. 187 (3) (4), s. 196, s. 197... Appendix B4 and B5. Many more of these references exist and you can have a look at their abbreviated form in Appendix A of this Module.

**Activity**

To test your understanding of the terms competent person and competent worker, please do Worksheet 2 in your Workbook

☐ Check

## E. Duties and Responsibilities

As mentioned previously, there are a number of “workplace parties” working on a typical construction site. This section of the Module deals with the specific duties and responsibilities of the main workplace parties.

### 1. Employers (s.25-26)

Employers have a number of duties that are described primarily in sections 25 and 26 of the OHSA. (Other employer duties and responsibilities are identified throughout the Act and Regulation 213/91.)

Among other duties, sections 25-26 state that employers shall (i.e., must):

- Ensure compliance to the Act and to all regulations.
- Take every precaution reasonable in the circumstances for the protection of workers.
- Prepare a written health and safety policy/program.
- Set up a joint health and safety committee (JHSC).
- Provide pertinent information to JHSCs.
- Identify hazardous materials, provide Material Safety Data Sheets (MSDSs) and train workers.
- Appoint a competent person as supervisor.

### 2. Constructors (s.23)

The main duties of constructors are described in section 23 of the OHSA.

Briefly, constructors shall:

- Ensure that the health and safety of all workers on a project are protected

- Advise subcontractors of the presence of designated substances
- Provide the Ministry of Labour with Notice of a project

### **3. Supervisors (s.27)**

The main duties of supervisors are described in section 27 of the OHSA.

Supervisors shall:

- Ensure that workers comply with the Act and the Regulations
- Ensure that workers use the protective devices and clothing required by their employer
- Advise workers of actual or potential health and safety hazards
- Where prescribed by regulation, provide workers with written instructions
- Take every precaution reasonable in the circumstances for the protection of workers
- Supervise the work at all times either personally or by having an assistant, who is a competent person, do so personally. (Note: this last duty of supervisors is stated in s. 14 (2).) of O. Reg. 213/91).

### **4. Workers (s.27)**

The main duties of workers are described in section 27 of the OHSA.

Workers shall:

- Work in compliance with the Act and the Regulations
- Wear or use protective equipment, devices and clothing required by the employer
- Report to a supervisor any defective equipment, hazard or violation of the Act
- Work in a manner that does not endanger the worker or others
- Not engage in horseplay or boisterous conduct.



**Activity**

To test your understanding of duties and responsibilities, please do Case Studies 1 to 7 for Module 3.

☐ Check

## F. Due Diligence

You have now learned about how to identify the main duties of the various workplace parties. This is important because as a supervisor you need to know exactly what everyone is required to do on the job. In particular, you need to know exactly what *your* responsibilities are. Why? So that you will be able to do your job effectively, and so that you will be able to prove that you exercised “due diligence” should anything go wrong in the workplace. Remember, maintaining due diligence is a primary duty of employers, constructors and supervisors.

### 1. Definition

Due Diligence means to

*“...take every precaution reasonable in the circumstances for the protection of a worker...”*

### 2. What are the standards for due diligence?

Due diligence is playing an increasing role in construction health and safety expectations.

Under sections 25 and 27 of the *Occupational Health and Safety Act*, employers and supervisors are required to “*take every precaution reasonable in the circumstances for the protection of a worker.*” Some people differ as to what actually constitutes reasonable care or due diligence. However, the Ministry of Labour has gone on record as stating that due diligence, as defined by the courts, is a defence that can be used once a violation of the Act has been proven.

To recognize due diligence, the Crown seeks very specific evidence rather than simply an indication that a generic health and safety program was in place. For the Crown, there must be proof that safety manuals, for instance, were not only handed out but that

- workers were trained as to what was in the manuals
- supervisors ensured that the safety procedures were being carried out
- workers were disciplined if the procedures were not followed.

The Crown considers due diligence at three stages in legal proceedings:

- before the charge is laid to determine whether there is a reasonable likelihood of conviction
- during the trial, as the Crown responds to the defendant's argument that due diligence was applied
- during sentencing, when proof of due diligence may result in a lighter sentence.

Due diligence involves a variable standard of care, flexible enough to be raised or lowered according to the factual requirements of each case.

Five variables help determine whether the standard of care for due diligence has been met in particular cases.

### **a. Standard of potential harm**

The more serious the potential hazard, the more the employer must do to achieve due diligence. A higher standard of diligence must be applied where the possible harm extends to significant injury or even death.

### **b. Available alternatives**

Where options to prevent an accident from happening (a different procedure, for example, or delaying work until safety is ensured) are reasonably within reach, taking those options is considered consistent with an appropriate standard of care; not taking them is considered inappropriate.

### **c. Likelihood of harm**

Work involving a high possibility of injury requires the employer to take greater or extra care. The standards return to normal when chances of harm are minimal.

#### **d. Degree of knowledge or skill expected**

Although the courts have historically not favoured employers who plead ignorance of their own operations, the degree to which an employer is knowledgeable about all aspects of the work can still play a role in establishing due diligence. An experienced employer, however, would likely be held to a higher standard of care than an industry newcomer.

#### **e. Extent to which causes are beyond the control of the accused**

Employers generally will not be held accountable for accidents stemming from causes over which they have no control and could not reasonably foresee.

### **3. Dispelling four “due diligence” myths**

Over the years, four common myths have arisen surrounding due diligence.

- Myth 1: Due diligence is an attitude
- Due diligence is, in fact, a set of observable, measurable actions. The right attitude is important, but it's not enough on its own.

- Myth 2: Due diligence is documentation

Documents are not the only evidence of due diligence.

- Myth 3: There are standard elements to achieve due diligence

There is no recipe for due diligence. Actions that qualify as due diligence depend on the situation.

- Myth 4: The joint health and safety committee or someone else can look after due diligence

Supervisors *can't* delegate due diligence to someone else. They *can* delegate some of the work involved but they must be able to show that they exercised due diligence in delegating.

## **4. Must contractors expect the unexpected?**

Contractors need not be responsible for the unexpected or unpredictable, a justice of the peace has ruled.

The case involving this ruling resulted in the dismissal of charges against a general contractor and subcontractor. The charges were laid after a worker was injured when a wall collapsed as the operator of an extendible-boom forklift was lowering a table saw into the building through a wall opening.

In dismissing charges of failing to adequately brace a concrete block wall, the Justice ruled that the wall was adequately braced against all forces which could reasonably be expected to be applied to it.

While both the forklift operator and the injured worker testified that neither the forklift nor the saw struck the wall, the blocks and equipment weren't tested to determine whether there had been contact.

"Because the investigation did not negate this possibility through forensic testing, it would not be, in my view, unreasonable to conclude that the operation of the 'zoom boom' forklift truck has in some way contributed to the accident," the Justice ruled.

In finding that the wall had been built to specifications, the Justice added that being struck by the forklift "was certainly not an intended use for the wall."

## 5. So what does this all mean for you?

Literally, it means just what this section started out saying: *take every precaution reasonable in the circumstances for the protection of a worker*. It means you must do your job completely and correctly so that you can protect yourself and your company should legal action be taken over an accident in the workplace. Specifically, it means develop a *due diligence strategy*.

Important things you can do to ensure that you are exercising due diligence are:

- Appoint a competent worker when you assign someone to do work.
- Know and apply section 27 of the OHSA and any other sections describing your responsibilities in either the Act or in any regulations that apply to the work.
- Receive and review Joint Health and Safety Committee (JHSC) minutes.
- Do at least a daily safety inspection of the workplace.
- Conduct weekly workplace safety meetings with workers.
- Report all workplace accidents as required.
- Provide OHSA and emergency information in the workplace.
- Use your authority to take corrective action and/or use discipline for all OHSA violations.
- Review all Ministry of Labour orders with those who report to you as well as with the person(s) to whom you report.
- Document all safety violations/occurrences (i.e., make sure you keep an up-to-date log book – see Module 2).

## G. Rights of Workers

In addition to duties and responsibilities, workplace parties have certain rights which they may exercise. Generally, workers' rights may be divided into three main categories.

### 1. The Right to Know

The Act places a duty on employers to provide a wide range of information about hazards in the workplace to workers and to Joint Health and Safety Committees. As far as the information provided to JHSCs is concerned, the Committees have a duty to communicate with the workers they represent.

### 2. The Right to Participate

Workers have the right to participate in the process of identifying and resolving workplace health and safety issues and concerns. This right is expressed through workers acting as Health and Safety Representatives or as members of Joint Health and Safety Committees or Worker Trades Committees.

### 3. The Right to Refuse

Workers have the right to refuse work if they believe the work is dangerous either to their own health and safety or to that of other workers.

The work refusal procedure is outlined in s. 43 of the Act. The actual right to refuse is given in s. 43 (3) which states that "*A worker may refuse to work or do particular work where he or she has reason to believe that.....the work is likely to endanger himself or herself.*" Note that as discussed in Section D4 (Reading the Act and Regulation 213/91) of this Module, "the word *"may"* means *"has the right to."*

In addition to being outlined in the OHSA, the work refusal process is clearly described in CSAO document MO29 the "Construction Health and Safety Manual." pp. 2-3.

**Activity**

Please read the discussion of the work refusal process contained in the Construction Health and Safety Manual (CSAO document MO29), pages 2-3. To aid in your understanding of the process, please pay particular attention to the flow chart describing the process.

☐ Check

## 4. The Right to Stop Work

Along with the right to know, the right to participate and the right to refuse, sections 45, 46 and 47 describe the right of a worker to stop work when a “dangerous circumstance” exists. It is important to note that this right applies only to a worker who is a ***certified member*** of a Joint Health and Safety committee (JHSC). The right to stop work is complex and applies only under certain conditions. The details regarding this right must be studied in the appropriate sections of the Act.

One detail needs to be discussed briefly here, however. Since the right to stop work applies ***only*** when dangerous circumstances exist, you, as a supervisor, need to know exactly what a “dangerous circumstance” is. The definition is given in s.44(1).

- 44** (1).....In sections 45 to 48, “dangerous circumstances” means a situation in which,
- (a) a provision of this Act or the regulations is being contravened;
  - (b) the contravention poses a danger or a hazard to a worker, and
  - (c) the danger or hazard is such that any delay in controlling it may seriously endanger a worker.



## 5. A Final Word About Rights of Workers

As a review of the material presented in this module so far and to present some additional information on health and safety legislation, a reprint of “Health and Safety Law” is included as a resource document at the end of this module. This material, originally produced for the Core Certification Training Program, has been updated by the Workplace Safety and Insurance Board.

### Activity

For further reading and review, please read Appendix B of this Module.

☐ Check

## H. Health and Safety Representatives and JHSC Members

A Joint Health and Safety Committee is a group, often called a forum, where employer and worker representatives communicate about health and safety issues. Committee members identify health and safety hazards, jointly assess them, and make recommendations regarding their effective control. This joint discussion and resolution of health and safety issues is an essential part of the Internal Responsibility System.

A Health and Safety Representative is a worker representative who has duties and responsibilities similar to those of JHSC members. Whether a Health and Safety Representative should be chosen, or a Joint Health and Safety Committee should be formed, depends primarily on the size of the workforce at a project.

### 1. Health and Safety Representatives

Requirements for Health and Safety Representatives are discussed in section 8 of the Act. You should read this section and learn all of the detail it contains. Regarding representation, however, the main point is that for a workforce of *6 to 19 workers*, a Health and Safety Representative must be elected by the workers at a project, or by the Union, if any.

Three situations in which you will likely interact with Health and Safety Representatives are:

- During workplace *inspections*
- During *work refusals*
- Before *testing* related to occupational health and safety is carried out.

## 2. Joint Health and Safety Committees

Joint Health and Safety Committees (JHSCs) are discussed in *section 9* of the Act. This is a detailed section containing 39 subsections. You should be familiar with them all.

Representation on JHSCs is based on the length of the project and the size of the workforce. For a project expected to last more than *3 months*, and which has from *20 to 49 workers*, a Joint Health and Safety Committee must be formed. The committee must be made up of *at least 2 members*, half of which must be workers who do not exercise managerial authority. For a similar project at which *50 or more* workers are regularly employed, the JHSC must consist of *at least four persons* with at least half of the members being workers who do not exercise managerial authority.

Situations in which you will likely interact with JHSC Members are similar to those in which you would interact with a Health and Safety Rep:

- During workplace *inspections*
- During *work refusals*
- Before *testing* related to occupational health and safety is carried out
- During Joint Health and Safety Committee *meetings*.

# I. Enforcement of the Act

Another “health and safety player” you will probably have to interact with eventually is the Ministry of Labour Inspector. Who are Inspectors and what is their function? Inspectors are employees of the Ministry of Labour and they are the primary enforcement officers of the *Occupational Health and Safety Act*. They are the ones who step in when the Internal Responsibility System has not adequately dealt with a health and safety issue which may or may not have been perceived by the workplace parties.

You will likely interact with Ministry of Labour Inspectors regarding MOL:

- Workplace *inspections*.
- *Orders* regarding non-compliance with the Act or the regulations.
- Workplace *investigations*.
- *Investigations of critical accidents or fatalities*.

## 1. Inspectors

Anyone in a workplace can call the Ministry of Labour (MOL) to request that an inspector be sent to that workplace. The MOL then assigns an inspector to investigate most complaints. In addition, inspectors conduct investigations of serious accidents, and may inspect a workplace on their own initiative.

Inspectors have many powers under the Act, including the right to enter any workplace at any time without notice.

Inspectors have a duty to enforce the Act. They are also expected to maintain contact with workplace joint health and safety committees (JHSC).

JHSC members, especially Certified Members (see s. 1 of the OHSA), are likely to be involved when an inspector visits the workplace. Worker-designated committee members—if possible the certified member—have the right to be present during workplace inspections and investigations. Inspectors may wish to speak with the certified members to obtain information about the workplace, including any health and safety hazards.

## 2. Inspector's Orders

Inspectors use *Orders* to enforce the Act. An Order is essentially an instruction to an owner, constructor, employer, supervisor, supplier or worker to stop violating the Act.

An Order may be given orally, but must be confirmed in writing before the inspector leaves the workplace. Copies of an Order must be given to the employer, to the Joint Health and Safety Committee, and, in the case of an investigation into a health and safety complaint, to the individual who has made the complaint.

Orders must also be *posted* in a place where they will most likely be seen by workers, for example, on a piece of equipment or in the vicinity of a problem about which the Order has been written. If the inspector does not post the Order personally, the employer must do so. And remember, it is an offence under the Act to remove or interfere with an inspector's Order or Notice.

There are two main types of Order given by inspectors: Compliance Orders and Stop Work Orders.

### a. Compliance Orders

The most common type of Order is the *Compliance Order*. These Orders specify the corrective action to be taken by an individual and set a deadline for *compliance*. This means the Order sets a deadline by which the person must obey.

On many occasions during a site visit, MOL inspectors will issue a Compliance Order that must be obeyed "forthwith." This means the violation must be corrected immediately. In practice, the inspector looks to see if the violation has been corrected before leaving the site.

## b. Stop-Work Orders

A second type of Order is the *Stop-Work Order*. This type of order specifies that work is not to proceed, or equipment is not to be used, until a particular problem has been fixed. For example, the inspector may order that work is not to continue until guardrails are installed in compliance with O. Reg. 213/91. The Stop-Work Order remains in effect until it is expressly withdrawn by an inspector in accordance with the provision of Section 57 of the Act.

## 3. Penalties under the Act

When the Internal Responsibility System is unable to prevent *offences* from taking place, *penalties* are provided for in section 66 of the OHSA.

The Act states that any person who contravenes or fails to comply with

- (a) a provision of the Act or the regulations
- (b) an order or requirement of an inspector, or
- (c) an order of the Ministry of Labour,

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

Section 66 (3) also introduces *due diligence*. The Act states that on a prosecution for a failure to comply with subsection 23 (1), clause 25 (1) (b), (c) or (d), or subsection 27 (1) “it shall be a defence for the accused to prove that every precaution reasonable in the circumstances was taken.”

To use this defence, though, you must be able to *prove* that you exercised due diligence by doing the things suggested in section F5 of this Module and by keeping a record (i.e., a log book) of your activities.

## J. Other Health and Safety Legislation

Throughout this Module reference has been made to regulations besides the Regulation for Construction Projects (O.Reg. 213/91) which impact on health and safety in construction. Parts of some of these pieces of legislation, such as the *Workplace Safety and Insurance Act* or the Building Code Act regulations, are incorporated by reference in the Occupational Health and Safety Act.

A partial list of legislation that is relevant to health and safety is the following:

- Workplace Safety and Insurance Act.
- Building Code Act.
- Transportation of Dangerous Goods Act.
- Ministry of Labour Act.
- Employment Standards Act.
- Fire Marshals Act.

## **Appendix A**

### **References in the *Occupational Health and Safety Act* and the Regulation for Construction Projects (O. Reg. 213/91) re Competent Person/Worker**



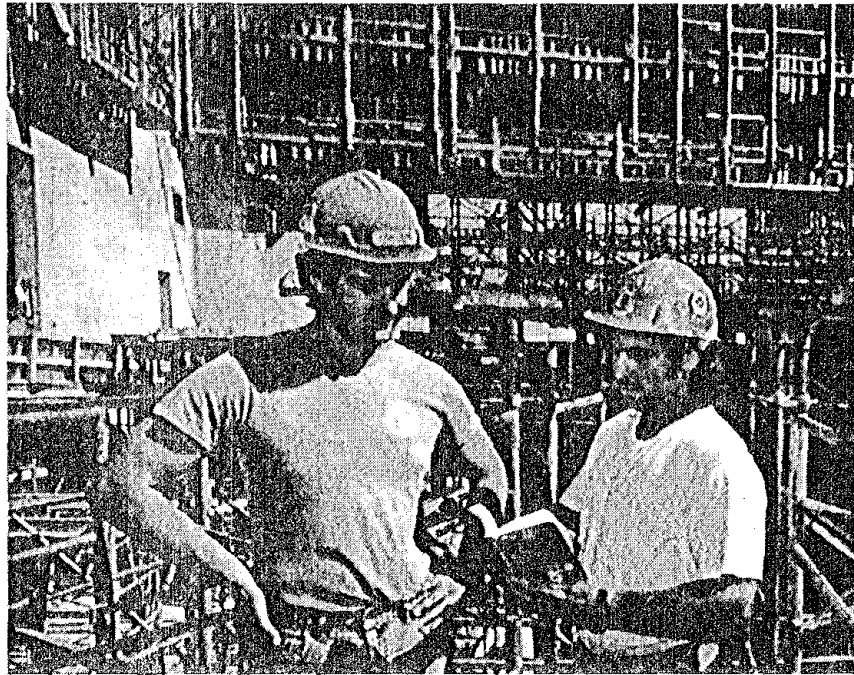
Section 14 (2)	assistant to supervise who is a competent person
Section 14 (3)	inspection by supervisor or competent person
Section 14 (5)	competent person to perform tests
Section 48 (2)	competent worker hot-tapping and boxing-in on pipeline
Section 55	inspection of fire extinguisher by competent worker
Section 60 (2)	testing of a confined work space by a competent worker
Section 62 (5)	inspection of equipment for use in a confined work space
Section 69 (1) (a)	worker who is to direct traffic
Section 89 (3)	competent worker inspecting formwork before concrete placement
Section 94 (1)	inspection of mechanically-powered vehicle, machine, tool and equipment
Section 106 (1)	signaller shall be a competent worker
Section 130 (3)	inspection to ensure scaffolding erected according to design drawings
Section 131	erection, alteration or dismantling of a scaffold by competent worker
Section 137 (11)	inspection of suspended platform, scaffold, or boatswain's chair by competent worker
Section 144 (3) (b)	inspection of elevating work platform by "worker" trained in accordance with Section 147
Section 153 (8)	competent worker designated by professional engineer to inspect crane
Section 153 (9)	competent worker to visually inspect crane's structural elements
Section 154 (1)	crane or similar hoisting device to be set up, assembled, extended and dismantled by competent worker

Section 158 (1)	competent worker designated by professional engineer to inspect structural elements of tower crane before erection
Section 159 (1)	competent worker designated by professional engineer to inspect structural elements of tower crane after erection and at designate intervals
Section 159 (3)	competent worker designated by professional engineer to inspect tower crane that has been repaired
Section 161 (1)	operational tests of automatic limit switches on tower crane by competent worker
Section 167 (3)	ground personnel including signaller competent workers for a helicopter used for hoisting materials
Section 170 (1)	inspection by competent worker of cables used by crane or similar hoisting device
Section 187 (3)	competent worker designated as signaller to warn operator if hoisting device approaches minimum electrical clearance distances
Section 189 (4)	competent worker available when certain electrical work undertaken
Section 196 (1)	blasting operations under control of competent worker
Section 197	handling, transporting, preparing and using explosives by a competent worker, or a worker under direct personal supervision of a competent worker
Section 209 (2)	only competent worker to operate roof hoist
Section 211 (1)	only competent worker to operate hot tar or bitumen road tanker or kettle
Section 239 (4)	removal of support system for walls of excavation removed under supervision of competent person

Section 261	supervisor in charge shall appoint competent worker to give first aid at a tunnel
Section 265 (3)	rescue workers at a tunnel to be trained by a competent worker appointed by Director of Construction Health and Safety Branch of MOL
Section 266 (3)	competent worker to train rescue workers in operation of self-contained breathing apparatus
Section 266 (12)	inspection of self-contained breathing apparatus by competent person
Section 291 (1)	hoist in a hoistway or shaft to be operated only by a competent worker appointed by a supervisor
Section 325 (2)	no person other than competent worker to use a device for firing a charge
Section 330 (2)	competent person to test the air and mechanical ventilation for an underground workplace
Section 336 (1)	employer to appoint a competent person as superintendent of work in compressed air workplace
Section 337 (1)	superintendent to designate competent worker for each shift as lock tender for an air lock
Section 337 (3)	superintendent to ensure one additional competent worker available to act as lock tender in event of emergency
Section 359 (1)	superintendent to designate at least one competent worker to be in charge of compressors at a compressed air workplace and air lock. (This competent worker must have unique, additional qualifications.)
Section 359 (3)	competent worker designated in 359(1) to attend compressors during certain times.

# **Appendix B**

## **Reprint of “Health and Safety Law”**



## Health and Safety Law

- History and Development of Health and Safety Law
- Rights and Responsibilities of Workers
- The Occupational Health and Safety Act
- Occupation Health and Safety Regulations
- Other Health and Safety Legislation
- Review

## History and development of Health and Safety Law

In the late 1970, the Government of Ontario began a process of updating the province's health and safety laws. Separate laws covering different industrial sectors were replaced with a comprehensive law covering almost all Ontario workplaces. This law, the Occupational Health and Safety Act (OHSA), was passed in 1978. The philosophy behind the law is known as the *internal responsibility system*. Although this term is not mentioned in any legislation, the Ministry of Labour's guide to the Act makes it clear that the government expects employers and workers to cooperate to control health and safety hazards.

A turning point came in 1974. Uranium miners in Eliot Lake became alarmed about the high incidence of lung cancer and silicosis, and they went on strike over health and safety conditions. The government appointed a Royal Commission to investigate health and safety in mines. Chaired by Dr. James Ham, it became known as the Ham commission.

The Ham Commission Report included more than 100 recommendations concerning mine health and safety. Ham was also concerned about the administration of health and safety. He developed the idea of an internal responsibility system, which would require government, employers and workers to cooperate to improve health and safety. To implement this system, he advocated the creation of joint labor-management health and safety committees, with worker members.

Subsequent amendments to the Act established new procedures as well as new rights and duties for workers, employers, supervisors and others in the workplace. Most important, they established joint health and safety committees in the workplace and gave them the right to participate in health and safety recommendations.

### *Joint Health and Safety Committees*

Bill 70 made joint health and safety committees (JHSCs) mandatory in most industrial workplace with 20 or more workers. Bill 208 expanded the joint committee requirement to cover all workplaces with 20 or more workers, regardless of the industry or occupation involved. One exception is construction projects expected to last less than three months. Other exceptions may also be created by regulation. A committee is now required in workplaces of any size

where a designated substance regulation applies, or where a Ministry order covering toxic substances is in effect. In workplaces with more than 5 but fewer than 20 employees, the workers must select a health and safety representative.

### ***Health and Safety Representatives***

The rights, duties and responsibilities of health and safety representatives as prescribed by the Act are very similar to those of joint committees. The main difference is that there is no provision in the Act for certification of health and safety representatives. Since they have no management counterpart and thus no committee meetings to attend, they are not entitled to pay for “preparation time” as are JHSC members. However, health and safety representatives are entitled to pay while carrying out their duties.

## **Rights and Responsibilities of Workers**

The Occupational Health and Safety Act includes three fundamental rights of workers:

- The right to know about workplace health and safety hazards;
- The right to participate in health and safety recommendations, through their representation on the joint health and safety committee;
- The right to refuse work if it endangers health or safety.

### ***The Right to Know***

The Act places a duty on employers to provide a wide range of information about hazards in the workplace to workers and to joint health and safety committees. Joint committees have a duty to communicate with workers. The right to know was first included in the 1978 Act and further expanded by subsequent amendments.

### **WHAT THE LAW SAYS**

#### ***Rights and Responsibilities of Workers***

##### **Rights**

- To know about workplace health and safety hazards
- To participate in making recommendations on health and safety issue
- To refuse work if they believe it endangers health or safety

##### **Responsibilities**

- To work in compliance with the Occupational Health and Safety Act
- To wear protective equipment, devices and clothing required by the employer
- To report to a supervisor any defective equipment, hazard or violation of the Act
- To work in a manner that does not endanger the worker or others
- Not to engage in horseplay or boisterous conduct

### ***The right to Participate***

The right to participate is given force by a duty on employers. They must consult with joint committees about testing methods and strategies and about health and safety training programs. Designated worker members of joint committees have the right to be present at the beginning of testing, to participate in Ministry inspections and investigations, and to investigate serious accidents. Certified worker members have the right to investigate complaints dealing with dangerous circumstances. Joint committees have the right to make recommendations to employers about health and safety improvements, and the Act requires employers to reply in writing. The right to participate was established by the 1978 Act.

### ***The right to Refuse***

Bill 139 proposed that workers be given a limited right to refuse work on the grounds that it endangers the health and safety of themselves or another worker. The 1978 OHSA expanded on this right by setting out specific work refusal procedures. The Act contains a two-stage refusal process. The work may be initially refused on the basis of a worker's subjective belief that is dangerous. Once a supervisor has investigated, the worker must have reasonable grounds for believing that then work is still dangerous in order to continue refusing.

## **The Occupational Health and Safety Act**

The Occupational Health and Safety Act is designed to protect the health and safety of workers by setting minimum standards for safe practices. The Act is the law, as are the regulations made under the act. Both the Act and regulations incorporate by reference many other regulations, guidelines, codes and standards. Since these separate elements of the law are determined by different processes, it is useful to think of the law as having three parts:

- The Act
- The regulations
- Guidelines, codes and standards incorporated by the Act or regulations.

For conveniences, the Ministry of Labour publishes three booklets. Each contains the Act and the regulations for one of the three sectors: industrial establishment, mining or construction. These booklets are commonly referred to as the *green books*.



### ***The Act***

The Act sets out the principles of the Law, and assigns general rights and duties to individuals and organizations.

### ***The Regulations***

The Act authorizes the Minister of Labour or the cabinet to enact specific regulations that determine how the law operates. Regulations provide many specific requirements. They are not debated and adopted in public. They are usually drafted by Ministry experts and then approved by the Cabinet, but they cannot contradict the Act. When a provision is made by regulation, it is referred to as being *prescribed*.

The government may appoint committees, made up of those affected by the law, to provide assistance or advice on specific regulations. For example, labour and management make up the Joint Steering Committee on Hazardous Substances in the Workplace.

### ***Guidelines, Codes and Standards***

Guidelines, codes and standards provide additional details that make regulations more precise or apply them to specific situations. They do not require Cabinet approval, and may not even be seen by the Minister. They are not enforceable unless they are specifically named, or *cited*, in the Act or in the regulation. Even if they do not have the force of law, they provide an indication of the rules likely to be used by Ministry inspectors and others who oversee the Act.

*Guidelines* are usually developed by government experts, outside experts or a combination of both, and do not require formal approval. Guidelines are set in government policy and are used extensively by Ministry inspectors.

*Codes* help to refine regulations and make them more specific. Experts, usually outside the government write them. Codes may also be Acts, such as the Fire Code. Codes are often referred to in the regulations of the Occupational Health and Safety Act. An example is the code for instruments used in testing procedures, which is specified in the designated substance regulation of the OHSa for lead [Ontario Regulation 536/81 as amended by Ontario Regulation 23/87].

*Standards* are usually developed outside government by committees of professionals in a particular industry or field of specialty. For example, Section 263 of Mining Regulation 694/80 says that lighting must conform to the Canadian Standards Association standard for industrial lighting.

### ***The organization of the Act***

This section aims to provide an understanding of the law's overall framework. The principal effects of each section of the Act are briefly described, but the descriptions are not exhaustive. Readers with a need to know the precise content of the law should read the relevant sections of the Act.

### ***Application***

The Act is divided into ten *parts*. Each part contains one or more sections, and there are 70 sections in all. Section 1, *Definitions*, is not included in any of the parts. It comes before Part I and contains definitions of terms used in the Act. These definitions are important to understanding the Act. They help to establish how, when and to whom the Act applies. For example, Section 1 defines a *worker* as a person who performs work or supplies services for monetary compensation.

Part I sets out the *application* of the Act. This means where, when and to whom it applies. In general, the Act applies to all workers in Ontario. There are few exceptions, including workers at federal undertakings, work done by an owner or a servant in or around a private residence, and farms. In addition, it is the

## **THE OCCUPATIONAL HEALTH AND SAFETY ACT**

### ***Parts of the Act***

#### **Definitions**

Part I: Application

Part II: Administration

Part III: Duties of Employers and Other Persons

Part IV: Toxic Substances

Part V: Right to Refuse or to Stop Work Where Health or Safety in

Danger

Part VI: Reprisal by Employer Prohibited

Part VII: Notices

Part VIII: Enforcement

Part IX: Offences and Penalties

Part X: Regulation  
Index

List of Regulations

## **THE OCCUPATIONAL HEALTH AND SAFETY ACT**

### ***Part I: Application***

#### **Section**

2. To whom the Act applies

3. Where and to whom the Act does not apply

4. Application of the Act to the self-employed

Ministry's policy that an inmate of a correctional institute is not a worker under the Act and therefore that the Act does not apply to inmates.

### ***Administration***

Part II of the Act deals with *administration*. It also establishes processes that support joint consultation in the workplace. Some sections give the Minister the authority to delegate powers to government employees. These include inspectors and ministerial advisors. Other administrative items include the collection of levies and provision of information by the Workplace Safety and Insurance Board.

A large portion of Part II sets up the processes that promote joint management-labour participation:

- joint health and safety committees;
- health and safety representatives.

### ***Duties of Employers and Others***

Part III sets out the duties of employers, workers, supervisors and other persons. Unlike rights that the parties may exercise, duties are things they must do.

More than 30 different parties are mentioned in the Act and all of them have duties. The duties of nine of them are set out in Part III. The most important duties are summarized below. They are discussed in more detail below and in more detail wherever relevant.

## **THE OCCUPATIONAL HEALTH AND SAFETY ACT**

### ***Part II: Administration***

#### **Section**

- 39. Delegation of powers from the Minister
- 40. Appointment of Inspectors and Directors
- 41. Inspector's Certificate of Appointment
- 42. Health and safety representatives
- 43. Joint health and safety committees
- 44. Worker trades committees
- 45. Consultation on industrial hygiene testing
- 46. Provision of information by the WSIB
- 13-19 Repealed
- 20. Testimony in civil proceedings by members of the WSIB
- 21. Appointment of advisory committees to the Minister
- 22. Powers under federal legislation

**EMPLOYERS**

Employers have many duties under the Act. They can be grouped into five categories:

1. Employers have a duty to set up a joint health and safety committee if one is required by the Act. The employer must also ensure that at least one worker member and one employer member become certified. The employer must pay for time spent by joint committee members while exercising their rights and duties under the Act. Employers must also prepare a written occupational health and safety policy and a program to implement that policy. A health and safety policy is the employer's statement of the principles that will guide health and safety in the workplace. The health and safety program is a set of procedures for implementing the policy. When the joint health and safety committee is part of the employer's decision-making process, it is likely that the committee will be consulted in the development and review of the health and safety policy and program. The policy must be posted in the workplace and reviewed every year.
2. Employers have a duty to provide pertinent information to JHSCs. This includes information about workplace hazards, testing and training. Employers must respond in writing to recommendations from JHSCs within 21 days.

**THE OCCUPATIONAL  
HEALTH AND SAFETY ACT**

*Part III: Duties of  
Employers and Others*

**Section**

23. Duties of constructors

24. Duties of licensees

25-26 Duties of employers

33. Duties of supervisors

34. Duties of workers

35. Duties of owners

36. Duties of project owners

37. Duties of suppliers

38. Duties of directors and officers  
of a corporation

**THE OCCUPATIONAL  
HEALTH AND SAFETY ACT**

*Health and Safety Policy  
and Program*

Section 25 of the Occupational Health and Safety Act states that employers shall:

- Prepare and review at least annually a written occupational health and safety policy and develop and maintain a program to implement that policy;
- Post at a conspicuous location in the workplace a copy of the occupational health and safety policy.

Section 32 further provides that:

- Every director and every officer of a corporation shall take all reasonable care to ensure that the corporation

3. Employers have a general duty to make sure that the Act and all regulations are complied with. All prescribed equipment, materials and protective devices must be provided and maintained. Prescribed measures and procedures must be carried out.
4. Employers have a duty to take every precaution reasonable in the circumstances for the protection of workers. They must provide workers with information, instruction, and supervision. The employer must appoint competent person (as defined by the Act) as supervisor. A worker exposed to hazardous material or physical agent must be given instruction and training prescribed by regulation. This training must be developed in consultation with the joint committee.
5. Employers have a duty to ensure that any hazardous material used in the workplace meets the requirements of the regulations concerning exposure limits, labeling, material safety data sheets and worker instruction and training. Where so prescribed, the employer must take an assessment of all biological and chemical agents produced for use in the workplace to determine if they are hazardous. If there is anything in the workplace that causes, emits or produces a hazardous physical agent, the employer must be posting warnings as prescribed by the regulations.

### *CONSTRUCTORS*

- Constructors have the same general duties as employers.
- Constructors have a duty to ensure that all contractors and subcontractors on a project comply with the Act, and that the health and safety of all workers on the project is protected.
- Where so prescribed, constructors must also provide written notice to a director of the Ministry of Labour when a project begins.

### *SUPERVISORS*

- Supervisors have a duty to take “every precaution reasonable in the circumstances” for the protection of workers.
- Supervisors must ensure that workers comply with the Act and regulations and that they use protective devices and clothing as required by the employer.

- Supervisors have a duty to advise workers of actual or potential health and safety hazards including in some cases written instructions.

### *WORKERS*

- Workers have a duty to work in compliance with the Act and regulations.
- Workers must wear or use protective equipment or clothing provided by the employer, and must not interfere with protective devices.
- Workers have a duty to report any violations in the Act, defective equipment or workplace hazard they are aware of to a supervisor.
- Workers must not operate equipment in any way that may endanger themselves or any other worker, and are prohibited from engaging in contests, pranks or boisterous conduct.

### *OWNERS*

- An owner of a workplace has a duty to ensure that the workplace and its facilities meet the regulations. Where required by regulation, they must provide workplace drawings, plans or specifications.
- An owner or employer can be required by regulation to file construction plans with the Ministry before any work is done. Owners of mines have a duty to update drawings and plans every six months.
- Owners must provide a list of designated substances that are on a project site to the constructor before entering into any contract for construction work. The constructor, in turn, must provide a copy of the list to contractors and sub-contractors.

### *DIRECTORS AND OFFICERS*

Directors and officers of a corporation shall take all reasonable care to ensure that a corporation complies with:

- The Act and regulations;
- Orders and requirements of inspectors and Ministry directors;
- Orders of the Minister.

### **Toxic Substances**

Part IV of the Act deals with *toxic substances*. A toxic substance is a biological or chemical agent, or combination of such agents that may endanger the health of a worker. The Act also uses the term *hazardous materials* and *hazardous agents* to describe toxic substances.

The Act deals with toxic substances in three ways. The first is by regulating the exposure to toxic substances during their use:

- There are special regulations governing 11 particular hazardous substances, which are designated under the Act.
- Ontario Regulation 654/86 regulates exposure to all hazardous or chemical agents and contains specific limits concerning such agents.
- A Ministry of Labour director can issue an order to an employer to prohibit or restrict the use of a toxic substance.

The second way the Act deals with toxic substances is through the Workplace Hazardous Materials Information System (WHMIS). This is a nation-wide federal/provincial system, which is incorporated into the Occupational Health and Safety Act and regulations. The WHMIS regulations require all hazardous materials in a workplace to be labelled, and material safety data sheets to be available for each of them. They also require special WHMIS training for workers.

The third way the Act deals with toxic substances is by regulating the introduction of new substances into the workplace. A person who wants to manufacture, distribute or supply a new substance must notify a director of the Ministry in writing. The director may order an assessment of the substance.

## **THE OCCUPATIONAL HEALTH AND SAFETY ACT**

### *Part IV: Toxic Substances*

#### **Section**

- 33. Orders regarding toxic substances**
- 34. New biological or chemical agents**
- 35. Notice of designation of substances**
- 36. Inventory of hazardous materials**
- 37. Identification of hazardous materials**
- 38. Copies of inventories and material safety data sheets**
- 39. Assessment for biological and chemical agents**
- 40. Claims for exemption from disclosing information**
- 41. Displaying information about hazardous agents**
- 42. Instruction and training regarding toxic substances**

***The Right to Refuse or Stop Work***

Part V of the Act gives workers the right to refuse work or do particular work which they believe is likely to endanger them or another worker. At the first stage the worker simply has to have a subjective belief that the work is likely to endanger health and safety. If the worker continues to refuse after a supervisor has investigated, he or she must have “reasonable grounds”.

Procedures for stopping work under dangerous circumstances are set out in Part V of the Act. A bilateral work stoppage occurs when a worker certified member and an employer certified member agree that dangerous circumstances exist. A unilateral work stoppage can be initiated by a single certified member, under the following circumstances:

- Labour Relations Board has issued a declaration that the unilateral procedure is in effect;
- an employer agrees to abide by the unilateral process; or
- a dangerous circumstance is found to exist.

***Reprisal by Employer Prohibited***

Part VI has only one section. Section 50 prohibits employers from making reprisals because a worker has acted in compliance with the Act. It also sets out procedures for dealing with complaints concerning reprisals.

**THE OCCUPATIONAL  
HEALTH AND SAFETY ACT**
***Part V: Right to Refuse or Stop  
Work Where Health or Safety in  
Danger***
**Section**

- 43. Procedures for work refusal
- 44. Definition of “Dangerous Circumstances”
- 45. Bilateral work stoppage
- 46. Application for unilateral work stoppage authority
- 47. Unilateral work stoppage
- 48. Investigation of complaint by certified member
- 49. Filing of complaint against certified member

**THE OCCUPATIONAL  
HEALTH AND SAFETY ACT**
***Part VI: Reprisal by Employer  
Prohibited***
**Section**

- 50. No discipline, dismissal, etc., by employer



### **Notices**

Part VII requires employers and constructors to immediately notify an inspector, the joint health and safety committee and the union, if any, when a person is killed or critically injured at a workplace. Where a critically injury has occurred, the employer must also send a written report within two days. Serious injuries or illnesses must be reported in writing within four days. Unexpected occurrences, sometimes called “near misses”, must be reported if they occur at the construction site or mine.

### **Enforcement**

The Ministry of Labour has the authority to, and is charged with the responsibility of, enforcing the law. Part VIII of the Act gives inspectors broad powers and requires that employers, supervisors and workers assist in the investigations.

The Ministry of Labour promotes the internal responsibility system. Management and workers without intervention from government should handle health and safety issues. Ideally, a problem or complaint is brought to the attention of JHSC members. These members have knowledge of health and safety principles and the law, and can suggest solutions. Most of the time, the supervisor without recourse to formal procedures under the Act can fix problems. If this approach fails, however, the Act contains specific procedures for enforcement by Ministry of Labour inspectors. There are also provisions for appealing the actions of inspectors to the Labour Relations Board.

#### **THE OCCUPATIONAL HEALTH AND SAFETY ACT**

##### *Part VII: Notices*

###### **Section**

- 68. Notice of fatality or critical injury
- 69. Notice of serious injury or illness
- 70. Notice on unexpected occurrence in a mine or construction site

#### **THE OCCUPATIONAL HEALTH AND SAFETY ACT**

##### *Part VIII: Enforcement*

###### **Section**

- 51. Duties and powers of an inspector
- 52. Order of inspections
- 53. Seizure of documents or things
- 54. Orders by an inspector
- 55. Compliance with order to isolate workplace
- 56. Submission of notice of compliance
- 57. Application by a director where an order is contravened
- 58. Appeal to Labour Relations Board regarding an order
- 59. Prohibition of interference with an inspector
- 60. Confidentiality of information
- 61. Copies of orders regarding a workplace
- 62. Protection of individuals from prosecution

***Offences and Penalties***

Part IX makes it an offence to contravene or fail to comply with the Act and its regulations. Fines up to \$25,000 for individuals and \$500,000 for corporations as well as jail terms of up to 12 months are set out. Procedures for presenting evidence and conducting trials are also set out in this part.

**THE OCCUPATIONAL  
HEALTH AND SAFETY ACT**

***Part IX: Offences and Penalties***

**Section**

- 63. Penalties
- 64. Evidence for prosecution
- 65. Trials
- 66. Time limit for prosecution

***Regulations***

Part X of the Act has only one section. Section 70 empowers the Lieutenant Governor in Council (the Cabinet) to make regulations. This section makes the regulations part of the law.

**THE OCCUPATIONAL  
HEALTH AND SAFETY ACT**

***Part X: Regulations***

**Section**

- 67. Regulations

## **Occupational Health and Safety Regulations**

The Occupational Health and safety Act Expresses the principles or intent of the Law. The regulations state how the Act will be applied. For this reason, Section 70, sets out 49 specific areas where the Cabinet may make regulations. It also provides a general authority to make regulations that are “advisable for the health and safety of persons in or about a workplace.” Regulations are enforceable under the Act.

There are four major types of regulations:

- the Workplace Hazardous Materials Information System (WHMIS) regulation;
- separate sector regulations for industrial establishments, mining and construction;
- the designated substance regulation;
- the Regulation Respecting Control of Exposure to Biological or Chemical Agents.

There are also a number of other regulations. They establish definitions, or regulate safety in specific areas.

### ***The Workplace Hazardous Materials Information System***

The Workplace Hazardous Materials Information System is usually referred to as WHMIS (pronounced whim-ss). This is a Canada-wide system, which was developed in consultation with management and labour. Separate packages of legislation were passed by the federal government and by all the provinces and territories. Thus, the same system applies in every Canadian workplace.

WHMIS provides information about hazardous materials in three ways:









- labels on the containers of hazardous materials;
- material safety data sheets (MSDS);
- worker education and training.

These three components work together to give practical meaning to the worker's right to know about toxic substances.

*Hazardous materials* include substances that are toxic as well as those that present other hazards such as fire or explosion.

### ***Federal WHMIS Legislation***

The Hazardous Products Act places duties on suppliers who sell or import a hazardous material for use in a Canadian workplace. They must label their products and provide material safety data to their customers.

<b>WHAT THE LAW SAYS</b>	
<b>WHMIS Hazard Symbols</b>	
	<b>CLASS A</b> Compressed Gas
	<b>CLASS B</b> Flammable and Combustible Material
	<b>CLASS C</b> Oxidizing Material
	<b>CLASS D-Poisonous and Infectious Material</b> 1. Material Causing Immediate and Serious Toxic Effects
	<b>CLASS D-Poisonous and Infectious Material</b> 2. Material Causing Other Toxic Effects
	<b>CLASS D-Poisonous and Infectious Material</b> 3. Biohazardous Infectious Material
	<b>CLASS E</b> Corrosive Material
	<b>CLASS F</b> Dangerously Reactive Material

The Controlled Products Regulations under the Hazardous Products Act define certain hazardous materials as *controlled products*, which are subject to the WHMIS requirements. The regulation also set out the information the supplier is obliged to provide on the label and on the MSDS.

### ***Ontario WHMIS Legislation***

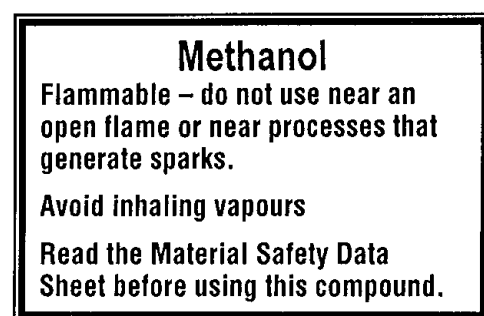
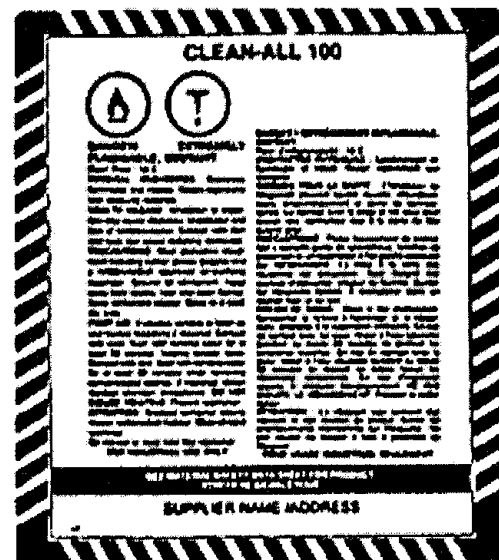
Part IV of the Occupational Health and Safety Act requires employers to ensure, subject to the regulations, that all hazardous materials are labelled and to ensure that material safety data sheets (MSDS) are available. Employers are required to develop training programs in consultation with the joint health and safety committee. The employer also has a duty to ensure that no hazardous material is used, handled or stored in a workplace unless the WHMIS regulation has been met. The WHMIS regulation (Ontario Regulation 644/88) sets out in detail the requirements concerning labels, material safety data sheets and worker training programs.

### ***WHMIS Labels***

Supplier labels and workplace labels are the first part of the WHMIS information delivery system. Controlled products used in a workplace must bear a WHMIS label.

*Full information supplier labels are* → required for most hazardous materials. The regulations provide for special labels for small containers, laboratories and laboratory supply houses. There are detailed requirements for the label design. In the case of bulk shipments, only the outer container needs a label, provided that arrangements have been made for full labelling at the workplace.

*Workplace labels* → are required when a controlled product is produced in the workplace, or when the product is transferred from the supplier container to workplace containers.



Workplace labels do not require as much information as supplier labels. Only the product name, safe handling instructions and an MSDS statement need to be shown.

### ***Material Safety Data Sheets***

Material safety data sheets are the second part of the WHMIS information delivery system. The MSDS is a technical document that summarizes the health and safety information available about a controlled product. The regulations require nine sections, including about 60 specific items of information.

The MSDS must be readily available at the worksite for use by the workers who may be exposed to the hazardous material. It must be also provided to members of the joint health and safety committee.

### ***Worker Education and Training***

The third part of the WHMIS information delivery system is worker education and training. To protect themselves and ensure proper handling, workers, need to know how to use the information on labels and MSDSs.

All workers who work with, or “in proximity” to, a controlled product must be informed about the hazard information provided by the supplier of a controlled product. In addition, they must be advised about any other hazard information of which the employer is aware or should reasonably be aware.

Worker training programs must be developed, implemented and reviewed at least once a year in consultation with the joint health and safety committee.

### ***Applying WHMIS in the Workplace***

WHMIS is the principal method by which workers are informed about toxic substances in the workplace. The regulations for labelling and providing MSDSs place very specific duties on the employer. The practical implementation of WHMIS in the workplace also involves the joint health and safety committee. The first priority is to ensure that all of the controlled products in the workplace are identified. Next, every worker who is likely to be exposed to a controlled product must be identified. And, finally, a training program must be carried out, to give each worker information about the safe use of these substances.

### ***Sector Regulations***

When the Occupational Health and Safety Act was passed in 1978, it replaced three separate laws covering specific sectors. They were the Industrial Safety Act, the Construction Safety Act and Part IX of the Mining Act. Provisions of the new Act, which are specific to each of these three sectors, are included in the sector regulations.

### ***Designated Substance Regulations***

The Occupational Health and Safety Act includes regulations governing the use of *designated substances*. The fact that they are designated means that their use must be assessed and controlled. In certain cases, the use of such substances may be prohibited by regulation.

There is a “green book” for each of the 12 designated substances. The regulations define limits of exposure and set out methods and procedures for the assessment and control of the substance. Each book also includes a schedule describing the methods for calculating worker exposure, along with a full description of the codes, including medical surveillance and monitoring requirements.

Each regulation contains sections setting out specific requirements for exposure limits, assessment methods, control programs, personal protective equipment and, where prescribed, medical surveillance procedures.

The designated substance regulations require that an assessment be conducted for each designated substance present in the workplace. The assessment, and any control program found necessary by the assessment, must be developed in consultation with the joint health and safety committee. The committee must be given copies of both the assessment and the proposed control program, and must be provided with the results of air sampling tests. A worker member of the JHSC may be present at the beginning of any such testing.

### ***Control of Exposure to Biological or Chemical Agents***

The Regulation Respecting Control of Exposure to Biological or Chemical Agents (Ontario Regulation 654/86) requires employers to limit a worker’s daily and weekly exposure to any of the approximately 600 specified hazardous substances. The regulation includes a schedule of biological and chemical agents for which exposure limits have been set. It does not apply to construction.

The schedule of exposure values attached to the regulation include three types of exposure limit:

- time-weighted average exposure values (TWAEV);
- short-term exposure values (STEV)
- ceiling exposure values (CEV)

The regulation generally requires that workers exposure be kept below these exposure values without the use of personal protective equipment. The employer must also pay for medical examinations of workers who are exposed to the substance. Such examinations are voluntary on the part of the worker.

## **Other Health and Safety Legislation**

The Occupational Health and Safety Act, or OHSA, is known as a “comprehensive” act. This means that it has very broad coverage. With few exceptions, it applies to almost all Ontario workplaces. In fact, some of its provisions cover self-employed individuals. Moreover, it overrides any contrary provisions of other Acts that regulate health and safety.

At the same time, the OHSA incorporates, by reference, certain provisions of regulations (codes) under other Acts. This means that if a referenced Act, such as the Building Code Act or its regulations, is amended, any changes to these provisions will automatically have force under the OHSA.

There are many Acts in this category, and only the most important of them are discussed here.

### ***The Building Code Act***

The OHSA incorporates regulations (codes) of the Building Code Act by reference. This includes, for example, the duty of the employer to ensure that a floor, roof, wall or pillar be capable of supporting loads. A ministry of Labour inspector has the right to obtain the report of a professional engineer as proof.

### ***Coroners Act***

The Coroners Act provides that a coroner may order an *inquest* into the death of a worker (compulsory in the death of a mine or construction worker). Such an

inquest does not replace the investigation required under the OHSA. A member of the JHSC who has a direct interest in the inquest may ask the coroner for permission to participate.

### ***Employment Standards Act***

The Employment Standards Act defines the standard hours of work. Employers can apply for variations to these standards.

### ***Fire Marshals Act***

The Fire Marshals Act provides special powers for fire marshals to enter workplaces and inspect the precautions that have been taken to protect life and property, and to make orders for improvements.

### ***Health Protection and Promotion Act***

The powers and responsibilities of Medical Officer of Health (MHO) are established by the Health Protection and Promotion Act. Under this Act, laboratories that examine human specimen must be licensed and must report their findings concerning reportable disease to the MHO. Public Health Boards also get their authority to inspect food service establishments under this Act.

### ***Labour Relations Act***

The Labour Relations Act governs the certification of trade unions as bargaining agents and the practice of collective bargaining. It establishes the Ontario Labour Relations Board (OLRB). The Occupational Health and Safety Act empowers the OLRB to enquire into any complaint of reprisal under Part VI of the OHSA. A person delegated by the Minister to hear appeals under the Toxic Substances sections of the OHSA is given the powers of the chair of a board of arbitration under the Labour Relations Act.

### ***Ministry of Labour Act***

The Ministry of Labour Act gives the Ministry the authority it needs to carry out its powers and functions. This includes part of the authority for Ministry inspectors to enforce and implement the OHSA.



### ***Provincial Offences Act***

The Provincial Offences Act includes procedures for the prosecution of offences under provincial statutes, including offences under the Occupational Health and Safety Act. It also establishes whereby inspectors may obtain a search warrant to enter a dwelling used as a workplace to make inspections under the OHSA.

### ***Smoking in the Workplace Act***

The smoking in the workplace Act restricts smoking to public areas or designated smoking areas. Joint health and safety committees must be consulted before establishing a designated smoking area.

### ***Transportation of Dangerous Goods Act***

The requirement for handling and transporting dangerous goods are uniform across Canada because all provinces have adopted this federal law. It outlines a system of dangerous goods labels and placards for use when such goods are being moved by road, rail or boat. This Act also requires special training, renewable every three years, for the person involved according to the type of goods they handle.

### ***Workplace Safety and Insurance Board Act***

The Workplace Safety and Insurance Board Act provides for a type of “no-fault” insurance to pay for workers claims for compensation for occupational injuries and illnesses. This Act contains a number of regulations that affect health and safety in the workplace. These include a regulation concerning first aid equipment. They also require that procedures to be followed in case of an accident be prominently posted in the workplace. The WSIB provides funding, as specified under the OHSA, to a variety of health and safety organizations.

The Occupational Health and Safety Act requires the WSIB to send, on request from a worker, employer, committee, health and safety representative or union, a summary of claims data relating to the employer.

### ***Highway Traffic Act***

The Highway Traffic Act provides for the rules of the road and drivers’ hours of work and is referenced in the regulations of the Occupational Health and Safety Act.

## Review

This chapter introduces the laws that govern health and safety in Ontario Workplaces. Principal among them is the Occupational Health and Safety Act. When it was passed in 1978, it became the first comprehensive health and safety law in Ontario. It applies to most workplaces in the province, regardless of the industries or occupations involved.

The Act places rights and duties on employers, workers, supervisors and others in the workplace. Individual workers are given three essential rights:

- the right to know;
- the right to participate;
- the right to refuse.

The Act also establishes a number of processes that encourage joint participation in health and safety matters. Most important, it requires the formation of joint health and safety committees, or the selection of an occupational health and safety representative in many workplaces. These joint committees are the focal point of joint action involving employers and workers. The Act support these activities by placing a duty on employers to provide joint health and safety committees with a wide range of information.

Amendments made under the Act in 1990 had the effect of broadening the scope of joint consultation on health and safety. The Act now requires the selection and training of certified members of joint health and safety committees. These certified members have special rights, duties and responsibilities under the Act.

This chapter also explains the structure of the Occupational Health and Safety Act. The Act is divided into 10 Parts. Several of these Parts concern administrative and enforcement issues. Others establish joint committees, assign rights and duties and establish the right to refuse or stop work.

The last part of the Act empowers the government to make regulations which have the force of law. They are four major types of regulations under the Act:

- the Workplace Hazardous Materials Information System (WHMIS) regulation;

- separate sector regulations for industrial establishments, mining and construction;
- the designated substance regulations;
- the Regulation Respecting Control of Exposure to Biological or chemical Agents.

Finally, this chapter briefly reviews a number of other Acts that are relevant to occupational health and safety. Parts of some of these Acts, such as the Building Code regulations, are incorporated by reference in the Occupational Health and Safety Asct. Others such as Health Protection and Promotion Act, govern activities that may be of interest to the workplace parties.