# *MANAGEMENT OF OCCUPATIONAL HEALTH AND SAFETY (Canadian) 8th edition Kelloway Test Bank*

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# TRUE/FALSE

1 : The majority of Canadian workers are regulated by the federal Occupational Health and Safety Act.
A : true
B : false

Correct Answer : B

2 : Regulations are more specific than guidelines when describing rules.
A : true
B : false

Correct Answer : B

3 : Standards and codes provide practical guidance on the implementation of occupational health and safety practices.
A : true
B : false

Correct Answer : A

4 : A firefighter can refuse to use a fire extinguisher that has been known to explode and cause injury.
A : true
B : false

Correct Answer : A

5 : Duties of workers are covered in the majority of provincial statutes.
A : true
B : false

Correct Answer : A

6 : Complying with standards, such as CSA Z1000-14, may help organizations demonstrate due diligence.
A : true
B : false

Correct Answer : A

7 : Human resource professionals responsible for managing health and safety should be familiar with the administrative structure of OH&S enforcement.
A : true
B : false

Correct Answer : A

8 : Charges of criminal negligence can be laid under the federal OH&S Act in Canada.
A : true
B : false

Correct Answer : B

9 : A nurse does not have the right to refuse unsafe work if the lives of patients are put at risk as a result of the refusal.
A : true
B : false

Correct Answer : A

10 : Critics of Bill C-45 have indicated that the bill is not effective in practice because the penalties do not reflect the seriousness of the charges.
A : true
B : false

Correct Answer : A

# SHORT RESPONSE

11 : Compare and contrast the duties of employers/contractors with the duties of supervisors when it comes to occupational health and safety in their workplace.

Correct Answer : Compare = similaritiesBoth share the general duty to take every reasonable precaution to ensure the protection of workers and both are responsible for informing workers of possible hazards and ensuring education, training, written instructions, and protective equipment are provided. Both are responsible for ensuring compliance with the OH&S Act and regulations. The involvement of supervisors in this general duty does not lessen the employer/contractor's responsibility for worker safety.Contrast = differencesIn addition to the general duties, employers/contractors have the primary duty for establishing and regularly reviewing an occupational health and safety policy, posting OH&S information, ensuring that supervisors are competent, and contacting the appropriate authorities as necessary (medical emergency, commencement of a project).In addition to the general duty, supervisors have the duty to supervise workers to ensure compliance with the OH&S Act and regulations and ensuring that they use/wear the provided safety equipment, devices, and clothing.

12 : Provide three examples of federal statutes that HR managers should be familiar with.

Correct Answer : There are a number of statutes that HR managers should be familiar with, examples include.• Canadian Environmental Protection Act• Hazardous Products Act• Canadian Charter of Rights and Freedoms, Part I of the Constitution Act• Canada Labour Code, Part IV• Criminal Code of Canada• Pest Control Products Act• Transportation of Dangerous Goods Act• Radiation Emitting Devices Act• Canada Shipping Act• Radiation Protection Regulations

13 : Outline the elements included in all Canadian OH&S legislation.

Correct Answer : All Canadian legislation includes the following elements• an act;• powers of enforcement;• the right of workers to refuse to do unsafe work;• protection of workers from reprisals; and• duties and responsibilities assigned to employers and others.

14 : What is an OH&S Act? How does an Act differ from a) OH&S regulations and b) OH&S

guidelines/policies?

Correct Answer : An OH&S Act is a federal, provincial, or territorial law that constitutes the basic regulatory mechanism for occupational health and safety. Alternatively, OH&S regulations explain how the general intent of the Act will be applied in specific circumstances. For instance, an Act will outline the powers of enforcement, the rights of workers, and various stakeholder duties. Safety regulations pertain to certain areas of practice, for instance fire safety regulations, first aid regulations, and machine guarding regulations. Typically, regulations are legally enforceable. Guidelines and policies are more specific rules that are not legally enforceable unless referred to in a regulation or Act.

15 : Seanne works for a chemical processing plant. She has not been given the necessary training to properly clean and maintain a new piece of equipment. Her manager is pushed her to “figure it out by asking someone”; however, she feels this is dangerous to both her and her coworkers. Outline the process Seanne should use to refuse this work.

Correct Answer : The approach to work refusals can vary slightly depending on the jurisdiction however the process generally includes the following.a) Seanne should alert her manager to the dangers associated with the work.b) Seanne should indicate her intention to refuse the work due to the reasonable assumption that performing this task is unsafe.c) Seanne must allow the employer to investigate and remedy the situation.d) The refusal, investigation, and remedy must be recorded and a report must be provided to Seanne. If the situation is not fixed to Seanne’s satisfaction, then Seanne should report it to the workplace health and safety committee or an individual responsible for health and safety within the company. If Seanne does not get a satisfactory response from her employer despite notifying the proper channels, then she should report it to the ministry responsible for OH&S in her province (e.g., in Nova Scotia this would be the Department of Labour and Advanced Education). The ministry would then investigate the complaint and document any actions that were taken. This report should be provided to Seanne. If Seanne is not satisfied with the ministry’s report, she may appeal within 30 days (NS standards) and request further review.It is important to note that under OH&S law Seanne cannot be threatened, intimidated, coerced, or discriminated against via a reprimand, dismissal, or wage penalty for complying with work refusal legislation.

16 : You are required to give a presentation on the Global Harmonized System to new staff at your company. Outline what GHS is and why it was implemented in Canada.

Correct Answer : GHS is an international standard for classifying and labelling of chemicals that was developed by the United Nations. GHS also communicates health and safety information on labels and safety data sheets. The GHS was adopted in Canada because it is a standard being adopted around the world and therefore would better connect Canada with other countries (e.g. United States) when it comes to factors like global trade and business interactions as it relates to chemicals. Additionally, having international standards will facilitate standardized communication of pertinent chemical safety information with the goal that the same set of rules for classifying hazards, and the same format and content for labels and safety data sheets (SDS) will be adopted and used improving the dangers associated with the storage and use of chemicals.

# MULTIPLE CHOICE

17 : Helen is the HR manager for a food processing plant. Adam is the production manager. They are having a disagreement over who is responsible for promoting a new workplace

bullying program. Adam believes it should be the sole responsibility of the HR manager. If the director of safety for the plant were told about this scenario, what might you reasonably expect them to say regarding who is responsible for promoting the program?
A : It is actually the employees' responsibility given they are the primary cause of workplace bullying.
B : All parties have a responsibility to improve health and safety, consequently they are both responsible.
C : It is the responsibility of the production manager (Adam).
D : It is the responsibility of the HR manager (Helen).

Correct Answer : B

18 : Which of the following is NOT an employer general duty?
A : appoint a competent supervisor
B : prepare policies regarding workplace violence and workplace harassment
C : appoint a Board of Directors
D : inform supervisors and workers of possible hazards

Correct Answer : C

19 : Which of the following provides guidelines for the presentation of information on chemical hazards in the workplace?
A : the Chemical Recognition and Information System
B : the Workplace Hazardous Materials Information System
C : the Workers' Compensation Act
D : the Dangerous Goods Act

Correct Answer : B

20 : What are the two essential limitations on the right to refuse unsafe work outlined in OH&S Acts across Canada?
A : There are no limits on the right to refuse unsafe work in Canadian jurisdictions.
B : The worker has previously performed the task, or the refusal would place another person's safety in jeopardy.
C : The employee works in a declared profession such as policing, or the refusal would place another person's safety in jeopardy.
D : The task in question is a normal condition of employment, or the refusal would place another person's safety in jeopardy.

Correct Answer : D

21 : Edwin is the owner of a chain of autobody shops in New Brunswick. He has been charged with criminal negligence causing death following a fatal incident at one of his shops. These charges have been laid under which of the following pieces of legislation?
A : the Criminal Code of Canada
B : the federal OH&S Act
C : the New Brunswick OH&S Act
D : the New Brunswick Crimes Act

Correct Answer : A

22 : Ella and Anwar are certified members of the JHSC at an Ontario-based cleaning products manufacturer. Ella represents the management side and Anwar the employee side. When they noticed that there was a problem with the ventilation at their main plant they agreed to halt operations. Which of the following have Ella and Anwar enacted?
A : a bilateral work stoppage

B : a unilateral work stoppage
C : the right to refuse unsafe work
D : a safety inspection

Correct Answer : A

23 : Which of the following systems for the classification and labelling of chemicals is being adopted by countries around the world?
A : OHSA
B : ISO
C : CSA
D : GHS

Correct Answer : D

24 : What is the term for the specific rules that are not legally enforceable unless referred to in a regulation or an act?
A : codes
B : standards
C : enforcements
D : guidelines and policies

Correct Answer : D

25 : Karen works as a set builder for a local television company. The safety guard on a band saw she uses has come off and is broken. Karen reports the broken guard to her supervisor who tells her to “keep working but be careful.” Karen does not feel comfortable and believes she could be seriously injured. Karen has the right to
A : call the police.
B : ask her coworkers to use the saw.
C : refuse to continue until the guard is fixed or replaced.
D : ask for danger pay or financial compensation for performing dangerous work.

Correct Answer : C

26 : You are the HR manager for a large clothing retailer in Prince Edward Island. An employee has asked you to clarify when a Joint Occupational Safety and Health Committee is required. In your response you indicate that the requirement largely depends on the size of the company and in PEI a committee is required when
A : the number of employees exceeds 10.
B : the number of employees exceeds 20.
C : the number of employees exceeds 30.
D : the number of employees exceeds 45.

Correct Answer : A

27 : An employee expressed her concerns to her supervisor that the scaffolding she was working on for a painting job had several loose bolts. She was concerned for her safety and requested the supervisor’s permission to stop working immediately. However, the supervisor insisted that she continue working. What employee right did the supervisor’s behaviour violate?
A : the employee’s right to refuse unsafe work
B : the employee’s right to report unsafe conditions
C : the employee’s right to participate in health and safety programs

D : the employee's right to a safe workplace

Correct Answer : A

28 : Which of the following statements is true?
A : The right to know is included in federal legislation.
B : The right to know is included in provincial legislation.
C : The right to know is included in federal and provincial legislation.
D : The right to know is included in WCB legislation.

Correct Answer : C

29 : In which circumstances does a ministry inspector/officer get involved in a work refusal situation?
A : when a worker identifies an unsafe work situation
B : when a worker refuses to return to work after a full internal investigation has deemed there is no danger
C : when a worker is told by the certified worker that he or she is endangered
D : when a number of workers refuse to work

Correct Answer : B

30 : Which of the following is a primary duty that is directly articulated in an OH&S Act?
A : mandated duty
B : general duty
C : prescribed duty
D : safety duty

Correct Answer : B

31 : All Canadian OH&S legislation includes which of the following elements?
A : Act, powers of enforcement, right to refuse, protection from reprisals, duties/responsibilities
B : Act, regulations, guidelines, standards/codes
C : Act, stakeholder enforcement, duties/responsibilities
D : Act, right for referral, protection from reprisals, standards/codes

Correct Answer : A

32 : D'Mari is a construction site supervisor on major commercial buildings. Part of his job is to follow provincial fire safety regulations. This is best described as which type of duty?
A : mandated
B : general
C : safety
D : prescribed

Correct Answer : D

33 : What is the PRIMARY function of the joint health and safety committee?
A : to communicate with the Ministry of Labour
B : to provide a nonadversarial opportunity for labour and management to work together to create a safer workplace
C : to conduct OH&S meetings
D : to ensure that safety messages are communicated

Correct Answer : B

34 : What is the most commonly found provincial requirement regarding which workplaces require a Joint Health and Safety Committee?
A : workplaces with 10 or more employees
B : workplaces with 15 or more employees
C : workplaces with 20 or more employees
D : workplaces with 25 or more employees

Correct Answer : C

35 : Sharon Nelson is the bakery manager and is a certified member of the JHSC at the grocery store where she works. According to legislation, which of the following employees must also be certified as a member of the JHSC?
A : Phillipe Gagnon, the store manager
B : Michelle Strickland, a full-time cashier
C : Asmin Zahid, the accounting manager
D : Brock Sutherland, the produce manager

Correct Answer : B

36 : If an employee refuses to perform a task they have deemed to be unsafe, which of the following is most likely to happen first if the worker's rights are respected?
A : An investigation to determine whether there is reasonable danger to the employee.
B : The worker is sent home with pay.
C : There is a stop-work order issued by the ministry responsible for OH&S.
D : The employee is recognized and rewarded for identifying a danger.

Correct Answer : A

37 : Lenny has just been promoted into a supervisory role at his work. Which of the following will be a new OH&S responsibility for him?
A : advising workers about safety hazards
B : proper use of safety equipment
C : cooperating with health and safety policy
D : taking all reasonable precautions to ensure his own safety and the safety of those affected by his work activities

Correct Answer : A

38 : A cleaning firm worker carelessly mixes bleach and a cleaning product while cleaning office tower washrooms. The mix results in toxic fumes that cause throat irritation to other cleaners. Which authority has jurisdiction over this incident?
A : Workplace Safety Board
B : Ministry of Environment
C : Ministry of Labour
D : Workers' Compensation Board

Correct Answer : C

39 : In OH&S terminology, which of the following is a person or company that oversees the construction of a project and is ultimately responsible for the health and safety of all workers?
A : foreman
B : constructor

C : inspector
D : supervisor

Correct Answer : B

40 : In R. v. Midland Transport Ltd. (1991), the New Brunswick Provincial Court held that the Transportation of Dangerous Goods Act is primarily for the protection of whom?
A : workers
B : shippers
C : the general public
D : carriers

Correct Answer : C

41 : The passing of Bill C-45 (Westray) legislation brought about changes to the Criminal Code introduced the notion of which of the following for the first time?
A : corporate negligence
B : corporate homicide
C : corporate incompetence
D : corporate manslaughter

Correct Answer : B

# CHAPTER 2
# Legislative Framework

## ESSENTIAL OUTCOMES

After completing the lesson on this chapter, students should be able to identify the origins and sources of the laws, rules, and procedures governing occupational health and safety in Canada. Students should be able to distinguish between the various roles, duties, and responsibilities of the major stakeholders involved in health and safety governance.

## LEARNING OUTCOMES

After completing this chapter, students should be able to:

- identify the three health and safety rights granted to workers in Canada
- describe the regulatory framework surrounding occupational health and safety
- outline the duties of the major stakeholders under occupational health and safety legislation
- discuss the nature of and limits placed on work refusals and work stoppages
- describe the structure and role of joint health and safety committees
- discuss WHMIS 2015 as it applies to the right to know about chemical hazards in the workplace
- explain how occupational health and safety fits into the *Criminal Code*
- express how environment and transportation of dangerous goods legislation interacts with occupational health and safety concerns

## KEY CONCEPTS

- Occupational health and safety in Canada is regulated both federally and provincially, with each jurisdiction responsible for creating and enforcing a variety of acts, regulations, guidelines, standards, and codes. The majority of workers in Canada are regulated by provincial or territorial legislation. These pieces of legislation protect the rights of Canadian workers, namely the right to refuse dangerous work without penalty; the right to participate in identifying and correcting health and safety problems; and the right to know about hazards in the workplace.
- ***Acts*** are pieces of legislation (laws) enacted by a specific level of government (federal, provincial, or territorial); **regulations** explain how the general intent of the act is to be applied in specific circumstances; **guidelines and policies** set out more specific rules for application that are not legally enforceable unless referred to in a regulation or act; and **standards and codes** provide practical guidance on the implementation of occupational health and safety practices. For instance, a code or standard may outline recognized best practices to manage a specific hazard, such as the maintenance and operation of a crane or another type of heavy equipment. Codes and standards are not necessarily enforceable by law, unless they are explicitly identified as required within the OH&S Act.
- All Canadian occupational health and safety legislation includes the elements of the act itself; descriptors of who has the power to enforce the act; statements outlining the rights of

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workers to refuse to do unsafe work and to be protected from reprisals for doing so; and a description of the duties and responsibilities assigned to employers and other stakeholders.

- Occupational health and safety legislation in Canada is heavily based on the concept that each of the stakeholders (e.g., employers, owners, contractors, supervisors, and workers) has significant responsibility for ensuring a safe workplace and for taking a proactive role in the identification of hazardous situations and the prevention of workplace incidents. The acts articulate general and prescribed duties for the stakeholders. The establishment and use of joint health and safety committees illustrates how the joint responsibility concept is put into force. The right to know, the right to participate, and the right to refuse are the three cornerstones of the system.
- OH&S Notebook 2.1 describes each Canadian jurisdictions' occupational health and safety legislation as follows:

| Jurisdiction | Legislation | Government Agency Responsible |
|---|---|---|
| Canada (Federal) | *Canada Labour Code*, Regulations under Part II | Workplace Safety, Labour Program, Employment & Social Development Canada, Government of Canada |
| Alberta | *Occupational Health and Safety Act*, Regulations and Code | Occupational Health & Safety, Alberta Labour |
| British Columbia | *Workers' Compensation Act*, Occupational Health & Safety Regulations | WorkSafeBC |
| Manitoba | *Workplace Safety and Health Act* and Regulations | SAFE Manitoba |
| New Brunswick | *Occupational Health and Safety Act* | WorkSafeNB |
| Newfoundland and Labrador | *Occupational Health and Safety Act* | Occupational Health & Safety Branch, ServiceNL |
| Northwest Territories and Nunavut | *Safety Act* and Regulations | Workers' Safety and Compensation Commission of the Northwest Territories and Nunavut |
| Nova Scotia | *Occupational Health and Safety Act* | Occupational Health & Safety Division, Nova Scotia Labour & Advanced Education |
| Ontario | *Occupational Health and Safety Act* | Occupational Health & Safety Branch, Ministry of Labour |

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| Jurisdiction | Legislation | Government Agency Responsible |
|---|---|---|
| Prince Edward Island | *Occupational Health and Safety Act* | Safe Workplaces, Workers' Compensation Board of PEI |
| Quebec | *Act Respecting Occupational Health and Safety* | Commission des normes, de l'équité, de la santé et de la sécurité du travail (CNESST) |
| Saskatchewan | *Saskatchewan Employment Act,* Occupational Health and Safety Regulations | WorkSafe Saskatchewan |
| Yukon | *Occupational Health and Safety Act* | Yukon Workers' Compensation Health and Safety Board |

- Every jurisdiction in Canada protects workers' right to refuse dangerous work without fear of reprisal. When workers have a reasonable cause to believe that a task or activity would cause danger to themselves or others, they can refuse to engage in the work following established procedures. There are some limitations on the right to refuse, particularly when the task or activity is a normal condition of employment, or if the worker, by his or her refusal, places another person's safety in jeopardy.
- The Workplace Hazardous Materials Information System (WHMIS) is designed to protect workers by providing them with the *right to know* about potentially hazardous materials with which they may come into contact, and with information to assist with the safe handling, use, and storage of these materials. Recent updates for WHMIS 2015 incorporate elements of the Globally Harmonized System of Classification and Labelling of Chemicals (GHS). This update means some changes to the WHMIS framework, such as the introduction of some new classes of materials, and will ease global business interactions and trade.
- Changes to the *Criminal Code of Canada*, which became law in 2004, mean that company executives can now have legal duties for workplace health and safety. Violations that result in injuries or death mean that executives could be charged criminally and, if convicted, face fines and or prison time.
- Federal, provincial, and territorial legislation also exists specifically for environmental concerns and the transportation of dangerous goods. These areas of legislation have many links to OH&S, and practitioners in this area need to be aware of the scope and implications of all the relevant legislation.

## Student Motivation

"Where do the laws and rules come from that help keep us safe at work?" That may not be a question many students will have considered, but virtually every student who has ever had a job will in one way or another have been impacted by the answer to this question. Perhaps the issue of workplace safety will be somewhat taken for granted by some students, who may have never paused to consider the mechanisms of legislation and the duties and responsibilities laid out therein. When this fundamental question is framed in such a way, students may be motivated to

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explore the answers a little more deeply. Further, students may be prompted to think about the issues more closely when prompted to consider the questions from a perspective of basic worker rights. They can imagine ways in which their rights to know, participate, and refuse can be facilitated and challenged in familiar workplaces.

## BARRIERS TO LEARNING

The topic of legislation, laws, and acts can be complicated and may seem quite "dry" to some students. Furthermore, they may have difficulty feeling any sort of personal connection or relation to them, especially for students who have never held a job or taken classes related to the topics. Others may have taken courses in civics, political science, or other subjects where the process of creating laws and governance is studied, and perhaps found the subject not all that interesting to them. Finally, the mix of jurisdictional authority for occupational health and safety legislation between the federal and provincial/territorial governments may confuse students. It is important to make sure that students pay careful attention to the details of this chapter .

## ENGAGEMENT STRATEGIES AND LESSON PLAN

### 1. Engaging Students at the Outset

> **Learning Objective:** *At the completion of this activity students will have gained an appreciation for the consequences of workplace incidents, and will have considered the roles and responsibilities of employers, supervisors, and workers in their prevention.*

To introduce students to the key concepts in this chapter, show the video *The Supervisor* (available for download from WorkSafe BC—see Additional Resources including discussion guide later in the chapter). This video puts a very human face on the topic of responsibilities for workplace safety, which may serve to engage some learners by helping them see and appreciate the need for laws, rules, and policies designed to protect workers from serious injury or death. At the conclusion of the video, give students the opportunity to debrief in pairs or small groups before facilitating a class discussion.

### 2. Lesson Engagement Strategies

a. **Learning Objective:** *At the completion of this activity, students will have been able to identify the major stakeholders in occupational health and safety, and list their primary duties and responsibilities for OH&S.*

Provide students with a **blank graphical organizer** such as a **radial or Venn diagram** (available in "SmartArt" in MS Word) with smaller circles radiating out from the central circle. Individually, in pairs, or in small groups, have students label the graphic organizer beginning with Duties and Responsibilities of the Stakeholders in the primary circle, and various stakeholders in the smaller circles. Have them continue to add the specific duties and responsibilities listed in the chapter next to each of the secondary circles. Students may work collaboratively, but have each student label and complete his/her own organizer. After this, review the organizer with the students against the material in the chapter to ensure completeness. Encourage students to retain the graphic organizer to use as a study and review tool. This activity can be used to supplement or replace the activity described in Section D, *Duties and Responsibilities of the Stakeholders*, in the Lesson Plan Notes and Lecture Outline.

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An alternative approach is to have students label the central circle based on the general duties of the stakeholders with the outer circles outlining the prescribed duties of those stakeholders. Students can find information about prescribed duties by searching through a provincial ministries website such as the Ontario Ministry website: https://www.labour.gov.on.ca/english/hs/faqs/rights.php#what4. One helpful approach is to provide students with a copy of the act (or a link) within your jurisdiction and have them navigate their way through the act until they find the information regarding the general and prescribed duties of supervisors. This allows students to get a sense of how the Acts are written and organized to get an understanding of the process that is required to find information within the act.

**b. Learning Objective:** *At the completion of this activity, students will have reviewed and discussed the issue of work refusals and the laws and policies related to the issue from a variety of perspectives.*

Using material from the Ontario Ministry of Labour titled **Part V: Right to Refuse or to Stop Work Where Health and Safety in Danger** (available on the Ontario Ministry of Labour website—see link in the **Additional Resources** section), divide students into similar-sized groups and assign each group a section of the material to review, synthesize, and present to the other groups. Suggested allocation of the material is to have one or two groups work with the question-and-answer section (divide the questions in two); another group work with the section dealing with the typical work refusal process (diagram); another group work with the section on the right to stop work; and the final group work with the section dealing with unilateral work stoppage. In a large class, consider having more than one group tackle each section, but have all groups present their summaries with a focus on adding to the understanding of the information being summarized. Have each group record its summary on flip chart paper to aid in the presentations. It is also helpful to have the students review the changes made to the *Canada Labour Code* in 2014. A link to the *Canada Labour Code* can be found in the additional resources. It is important for students to see how these changes clarify some of the confusion and challenges employers were facing with work refusals, which students can read about in OHS Today 2.3 “When Do Organizations Need Joint Health and Safety Committees.”

**c. Learning Objective**: *At the completion of this activity, students will be able to discuss the application of the* Criminal Code of Canada *in OH&S cases. This increased knowledge will enable students’ understanding of this legislation and how it relates to the enforcement of OH&S legislation. In sourcing their own information and discussing their findings with the instructor and classmates, students will also gain increased appreciation for the importance of source integrity.*

There have now been numerous criminal charges for OH&S offences, including Metron Construction, Transpave, and Pasquale Scrocca. That said, one criticism of the legislation is that there are relatively few charges laid under this law and even fewer convictions. Working in either small groups of three or four students (if there is individual Internet access) or as a class, complete the following table for several cases in which charges were laid under the Westray legislation.

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| Case Name | Short Summary of Case | Criminal Charges? | Who Was Charged? | Other Charges (OH&S, Environmental, Dangerous Goods etc.) | Convicted? | Punishment (Fine/Jail time) |
|---|---|---|---|---|---|---|
| | | | | | | |
| | | | | | | |
| | | | | | | |

In completing such a table for even one or two cases, students will be prompted to think about how the Westray legislation is used in conjunction with other areas of legislation, the nature of the cases where criminal charges are laid, and the types of sentences and fines that are applied. Students should be prompted to think about the criticism that Bill_C45 penalties do not often reflect the severity of the seriousness of the charges. A discussion of why the legislation is not often applied may follow.

## 3. Lesson Plan Notes and Lecture Outline

### *A. Introduction—Overview of the Regulatory Framework for Occupational Health and Safety*

Refer to Occupational Health and Safety Notebook 2.1 to provide students with an overview of the regulatory framework for occupational health and safety in federal, provincial, and territorial jurisdictions. Use PowerPoint slides and access websites to define and give examples of acts, regulations, guidelines and policies, standards, and codes. Discuss the scope and common elements (list) that are included in all Canadian occupational health and safety legislation using PowerPoint slides. As indicated above in Lesson Engagement Strategy 2, it is often helpful to have students look at a copy of the OHS Act within your jurisdiction and ask them to locate answers to specific questions. Questions such as "Under the act what the definition of a supervisor? Are supervisors allowed to dismiss an employee who exercises their right refuse unsafe work?

### *B. Canadian Government Departments Responsible for Occupational Health and Safety*

Ask students what act, regulation, and enforcing bodies are responsible for occupational health and safety legislation in their jurisdiction. Referring to OH&S Notebook 2.1, access your provincial or territorial jurisdiction's website (e.g., *BC Workers Compensation Act*, OH&S Regulation, WorkSafe BC [http://www.worksafebc.com]). Provide students with an overview of the administrative structure of the act and regulations as these relate to enforcement, education, and compensation. You will want to refer to the index and users' guides so that students become familiar with how to find the legal requirements for various workplaces. Government departments in the different jurisdictions have resources, such as OH&S Act interpretation guides that can be accessed online.

### *C. Work Refusals and Workers and Employers Rights*

(See Lesson Engagement Strategy b.)

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### *D. Duties and Responsibilities of the Major Players*

Divide students into six groups, representing the major players in occupational health and safety listed below. Students can use their text and other publications (printed or online) on OH&S legislation in their jurisdiction ( "Safety on the Job Is Everyone's Business: The Responsibilities of Employers, Supervisors and Workers" at https://www.worksafebc.com/en/forms-resources#sort=relevancy&f:language-facet=[English]) to discuss and then present to the class the duties and responsibilities of the following:

- Employers/Owners/HRMs
- Employees
- Suppliers
- Joint Health and Safety Committee/Worker Representatives
- Supervisors
- Contractors/Subcontractors

Refer to the end-of-chapter Discussion Question 5.

It is the employer's legal obligation to ensure the workplace is safe. Employers are responsible for ensuring the health and safety of all workers and of any other workers at a workplace where the employer's work is being carried out. This involves establishing an occupational health and safety program (described below), providing a healthy and safe working environment, and providing instruction and training to supervisors and workers. Business owners are responsible for providing and maintaining the land and premises being used as a workplace in a manner that ensures the health and safety of anyone at or near the workplace.

According to the *Workers' Compensation Act of BC*, an employer must meet the standard of due diligence. To meet this standard, an employer must take all reasonable care to protect the well-being of workers. An ongoing occupational health and safety program that controls specific hazards in the workplace forms the basis of due diligence. An employer that has all the occupational health and safety program elements required by the regulation, in effect and working well, is acting with due diligence. The minimum occupational health and safety program elements are outlined below:

- Statement of Aims and Responsibilities
- Inspection of Premises, Equipment, and Work
- Written Instructions
- Management Safety Committee Meetings
- Investigation of Accidents/Incidents
- Maintenance of Records and Statistics
- Instruction and Supervision of Workers

### *E. Workplace Hazardous Materials Information System (WHMIS)*

Ask students if they have received training in the Workplace Hazardous Materials Information System. Ask them for details about what they learned, as specific information is gathered from the student's experiences. Provide an overview of brief WHMIS legislation. WHMIS is a

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nationwide program that provides information about the use of hazardous materials (controlled products) in the workplace. Labels, Safety Data Sheets, and worker education and training are the three communication elements of WHMIS. Labels on controlled products alert workers to potentially hazardous products. Safety Data Sheets provide workers with detailed hazardous ingredients, as well as information on the safe handling of the product. Education and training provides employees with the information and practices that they need to work safely with controlled products. Recently changes have been made to the WHMIS program. WHMIS 2015 incorporates elements of the GHS to ease international business and trade. Tell students that the details of WHMIS 2015 will be covered in Chapter 6.

### *F. Corporate Liability*

Provide an overview of Bill C-45, the "Westray Legislation." Bill C-45, which went into effect on November 7, 2003, is an act that amended the *Criminal Code* and established a duty in criminal law for organizations to protect the health and safety of everyone in the workplace. Have students form small groups to discuss the following question: "What impact do you think this legislation is having on organizations and HRMs?"

Bill C-45 came about because OH&S laws had not prevented the Westray Mine Tragedy (during which 26 coal miners lost their lives in 1992) and had not punished those guilty for the disaster (owners and managers).

This was a weakness in the legal system. It was the failure of the organization to put health and safety before company profits and short-term economic gain, and of a management style and culture that emphasized production over safety. The following outlines the impact of this new law:

- It states that "the employer must take reasonable steps to prevent bodily harm to any person arising out of work" (217.1).
- It proposes severe penalties of up to 10 years imprisonment for bodily harm and life imprisonment for death if an employer fails to protect the health and safety of the worker.
- It broadens the scope of who is responsible for worker OH&S to all levels of management and everyone else who directs the work of others.
- Organizations (i.e., owners, senior officers, directors, and managers) can be charged with criminal negligence if they fail to maintain an appropriate standard of OH&S in the workplace.
- It broadens all legislation to address (ensure protection) any current or unresolved workplace health problems (not just disasters and deaths), which can range from second-hand smoke to stress. Employers must not expose workers to the risk of illness, disease, or death.
- It supports unions' historical fight for worker health and safety and their raising of workplace OH&S concerns (visit United Steel Workers, http://www.uswa.ca).
- Training was not provided prior to the Westray disaster. This new legislation supports the importance of OH&S training, which is emphasized in all OH&S jurisdictions.
- It supports provincial or territorial and federal legislation requiring employer due diligence through the implementation of all the elements of an OH&S program. Due diligence requires a business to foresee all unsafe conditions or acts, and requires it to take precautions to

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prevent accidents that can reasonably be anticipated. An ongoing OH&S Program that controls specific hazards in the workplace forms the basis of due diligence.
- It supports the importance of the strategic management of OH&S (education, legislative compliance, integration with other human resource functions, cost containment, safety leadership and culture, and managing change).

### *G. Federal and Provincial or Territorial Statutes Relating to Environmental or OH&S Management*

Refer to OH&S Notebook 2.4 and provide students with an overview of the federal and provincial or territorial statutes relating to environmental or OH&S management. Describe the purpose and basic provisions of the transportation of dangerous goods acts. Engage students in a discussion about the differences between the responsibilities assigned to companies under occupational health and safety legislation and those assigned under environmental legislation.

Occupational health and safety legislation states that employers are responsible for ensuring the health and safety of all workers and any other workers at a workplace where the employer's work is being carried out. They are also responsible for providing and maintaining the land and premises being used as a workplace in a manner that ensures the health and safety of anyone at or near the workplace. Environmental legislation states that employers must take all reasonable care to protect the environment and the public's health. Corporations are criminally liable if they pollute the natural environment. Environmental legislation affects the environment, employees, and the public.

## ASSESSMENT TOOLS

To quickly assess student learning against the chapter learning outcomes, at the end of the class:

- Ask students (without referring to their notes) to define an **act**, a **regulation**, **guidelines and policies**, and **standards and codes.**
- Call on students, assigning them a stakeholder role (e.g., supervisor), and ask them to briefly outline one or more of their responsibilities for occupational health and safety (call on other students to help elaborate, expand, or clarify as needed). Continue for each of the stakeholder groups (employers, owners, and contractors; supervisors; and workers).
- Ask students to briefly describe the purpose and function of joint health and safety committees.

## REFLECTIONS ON TEACHING

Good teaching requires ongoing self-assessment and reflection. At the completion of this lesson, you may find it helpful to reflect on the following, and consider whether you want or need to make any adjustments for subsequent lessons.

- What worked in this lesson? What didn't?
- Were students engaged? Were they focused or did they go off on tangents?
- Did I take steps to adequately assess student learning?

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- Did my assessments suggest that they understood the key concepts?
- What (if anything) should I do differently next time?
- How can I gather student feedback?
- How can I use this feedback for continuous improvement of my teaching?

## ADDITIONAL RESOURCES

### Weblinks

- Ontario Ministry of Labour website: *Part V: Right to Refuse or to Stop Work Where Health and Safety in Danger,* http://www.labour.gov.on.ca/english/hs/pubs/ohsa/ohsag_part5.php
- Canada Labour Code Work Refusals: https://laws-lois.justice.gc.ca/eng/acts/L-2/page-25.html?txthl=refuses+refusal+refuse#s-128

### Videos

- *WorkSafeBC.* "The Supervisor." (2004). This 15-minute documentary-drama examines a supervisor's responsibility for workplace health and safety. It depicts the emotional, legal, and financial consequences of a fictionalized workplace accident that results in the death of a young worker. The video and discussion guide can be accessed from https://www.worksafebc.com/en/resources/health-safety/videos/the-supervisor?lang=en. A list of other resources can be accessed at WorkSafeBC: https://www.worksafebc.com/en/forms-resources#sort=relevancy&f:language-facet=[English]

## SUGGESTED ANSWERS TO CASES AND EXERCISES

### Discussion Questions

1. What are the three fundamental workers' rights that underlie most health and safety legislation?

*Answer:*

1. The right to refuse dangerous work without penalty.
2. The right to participate in identifying and correcting health and safety problems.
3. The right to know about hazards in the workplace.

2. What is the most fundamental general duty provision in occupational health and safety legislation across Canada? How do the general and prescribed duties in the legislation reflect the internal responsibility system?

*Answer:* The general duty provision requiring employers to take ***every reasonable precaution*** to ***ensure*** employee safety is represented in health and safety acts across Canada. It is the fundamental general duty provision. Both general and prescribed duty provisions address both the shared and specific duties that all stakeholders have to keep workplaces safe. In outlining

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these duties across groups of stakeholders, the legislation illustrates how safety is a shared responsibility as outlined in the Internal Responsibility System.

3. Considering the health and safety legislation: (A) Provide an example of a situation in which a worker could reasonably refuse work. (B) Describe a situation in which a worker could not refuse unsafe work.

*Example Answer*: (A) A tree-planting crew refusing to work in very hot conditions because their employer did not provide them adequate personal protection in the form of sunscreen and water is an example of a situation in which a worker could reasonably refuse work. (B) However, that same crew could not refuse to plant trees on the basis of it being hard work or mentally unstimulating, as planting trees is part of the nature of the work.

*Example answer*: (A) A firefighter can refuse to engage in a training exercise due equipment checks that have not been properly completed. (B) That same firefighter cannot refuse to attend an emergency call to a house fire where individuals are trapped because the house is a known base for criminal activity; in doing so, he or she would place others' lives at risk.

4. How does WHMIS reflect basic health and safety rights?

*Answer:* WHMIS is the Workplace Hazardous Materials Information System, a nationwide program providing information about the use of hazardous materials (controlled products) in the workplace. Under WHMIS legislation, employees must be provided with this training if they encounter hazardous products in their work. Thus, the WHMIS legislation enacts the Right to Know.

5. Describe the structure and role of joint health and safety committees. In your answer, reflect on how such committees enact the right to participate.

*Answer:* Legislative mandatory requirements for joint health and safety committees are outlined in OH&S Notebook 2.3 and are expanded on in each jurisdiction's occupational health and safety legislation. Health and safety acts in some jurisdictions (British Columbia*, Manitoba, Ontario*, New Brunswick, Nova Scotia, Prince Edward Island, Yukon, and Northwest Territories/Nunavut) require a joint health and safety committee when 20 or more workers are regularly employed in the workplace or when ordered by the board. However, the jurisdictions with an asterisk have special provisions that can require a smaller organization to have a committee in place as a result of an order and/or when requested by the governing body. Ontario has additional provision for committees when designated substances are in use. Two jurisdictions, Newfoundland and Labrador and Saskatchewan, require a committee when there are 10 or more employees. Quebec's act permits the formation of health and safety committees when there are more than 20 employees. The committee is established by written notice by the certified association or 10 percent of the workers in the case of workplaces without certified associations. The CNESST also has the ability to require a committee in a Quebec workplace regardless of the number of workers. Alberta requires committees at the direction of the minister responsible for the *Occupational Health and Safety Act.*

Committees are made up of members that represent both the employer and the workers. The primary role of these committees is to provide a collaborative atmosphere where employers,

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managers, unions, and employees can work together to ensure the workplace is safe. Although employers are ultimately responsible for occupational health and safety programs, worker health and safety representatives and joint health and safety committees have the following duties and functions: to identify and evaluate unhealthy or unsafe situations; to identify and recommend solutions to health and safety problems or complaints; to promote safe work practices; to recommend ways to improve the health and safety program; to promote compliance with regulations; and to participate in inspections and accident investigations.

By having representation from both employers and employees, JHSCs enable workers' right to participate in OH&S.

**Exercises**

1. What OH&S legislation applies in your jurisdiction? Find the body responsible for occupational health and safety and review the legislation. What are the major provisions and their implications for employers? for employees? for human resource managers?

*Answer:* Students will want to refer to OH&S Notebook 2.1 to find their provincial, territorial, or federal jurisdiction website. Students should be able to describe the administrative structure of the act and regulations as they relate to enforcement, education, and compensation.

The scope of legislation differs in each Canadian jurisdiction. The following describes the major provisions and their implications for employers, owners, contractors, employees, human resource managers, and supervisors in British Columbia. Employers are responsible for ensuring the health and safety of all workers at a workplace where the employer's work is being carried out. This involves establishing an occupational health and safety program, providing a healthy and safe working environment, and providing instruction and training to supervisors and workers.

Business owners are responsible for providing and maintaining the land and premises being used as a workplace in a manner that ensures the health and safety of anyone at or near the workplace. They must ensure that employers and prime contractors at the workplace have all the information they need to identify, eliminate, or control occupational health and safety hazards. When work areas of two or more employers overlap, the owner of the site must coordinate health and safety activities. Contractors or subcontractors must be registered with WorkSafeBC.

Supervisors are responsible for ensuring the health and safety of all workers under their direct supervision. They must ensure that workers follow the requirements of the Act and Regulation and that they are aware of any health or safety hazards in the workplace. They must conduct regular staff safety meetings, workplace inspections, and incident investigations, correct unsafe acts and conditions, and ensure that workers are adequately trained and are qualified to safely perform their duties.

Workers are responsible for protecting their own health and safety as well as the health and safety of other people who may be affected by the work being done. They must learn and follow safe work procedures, use and maintain personal protective equipment as required, report hazards to their supervisor or employer, and participate in workplace inspections and incident investigations as required.

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2. Health and safety legislation can be crafted following different approaches. One approach is to force compliance through establishing standards, conducting rigorous inspections on a regular basis, and harshly punishing failures to meet the established standards. A second approach is to facilitate self-reliance by providing parties with the information and resources necessary to monitor and enhance health and safety in their workplaces. What are the relative merits of these two approaches? What advantages/disadvantages accrue under each system? What is the appropriate balance between enforcement and encouragement?

*Answer:* Effective occupational health and safety needs to be part of the organization's culture. Culture is an organization's shared values and beliefs about the way employees think and act within the organization. The organization's beliefs and expectations concerning occupational health and safety strongly influence whether employees act safely or not. The goal is to have occupational health and safety as part of the business plan and for it to be a core value held by managers and employees at all levels.

An organization's culture is a reflection of its leaders, values, and vision. HRM practices (i.e., hiring, orientation, training, and performance evaluations) should support these organizational expectations. An organization's occupational health and safety culture is a mix of formalized rules, controls, autocratic decision making, and enforcement at one end of the continuum and a mix of self-reliance, motivation, participatory decision making, and internalized commitment on the other end. Organizations are very diverse and are made up of a mixture of enforcement and self-control processes and practices.

Legislation and compliance may be needed when organizations and employees have limited understanding or commitment toward occupational health and safety. Legislation outlines what employers and employees are accountable for without moral buy-in. Self-monitoring builds employee ownership, initiative, and self-responsibility. The measure of occupational health and safety would be a delicate balance of compliance while embracing shared perceptions of the importance of safety. Dupont has received recognition as an organization that has taken ownership and responsibility for occupational health and safety.

3. WHMIS training is widely available online. Using a search engine and key words such as "WHMIS online training," find a local provider of online WHMIS training.

Answer: You can have the students complete this exercise at home and then share their online WHMIS training websites and experiences with Internet-based learning with the other students in the class.

**OH&S in Action**

As a human resources manager at an urban property management firm, you've noticed that there are an increasing number of young workers on your payroll. Some are students who are helping to cover their living costs by acting part-time as on-site superintendents in their apartment buildings, some are summer workers who are hired to cover additional outside maintenance and landscaping work in the summer, and others are new full-time, permanent hires brought on in a recent expansion of your company's holdings. You're concerned that you are seeing an increase in worksite injury incident claims. When you interview many of these new, young workers, you

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realize that they are often unaware of their workplace rights. Prepare a *briefing note* for your boss, the Director of Company Operations, outlining the basic worker rights, why it is important for workers to understand them, and how you might increase awareness of these rights among your entire workforce, including young, short-term, and part-time workers. (Hint: You can easily find details on the purpose and structure of a briefing note with an Internet search.)

*Elements of Potential Answers*: The nature of the briefing note (format, length, etc.) will depend on the types of instructions and resources you provide students. If you prefer that all follow a particular format, it is a good idea to provide them with a particular format or common resource to guide their work. Briefing notes are short and clear. They provide decision makers with the core information they will need to act on an issue. The purpose should be clearly stated. There should be a summary. The note should highlight the major considerations the decision maker needs to consider. These should be brought together in a conclusion, which may include recommendations.

In this case, the briefing note might outline the extent and nature of the incident claims, the lack of awareness of rights in the interviews. The three basic rights (the right to refuse dangerous work without penalty; the right to participate in identifying and correcting health and safety problems; and the right to know about hazards in the workplace) should be identified. The imperative that the organization fulfill these rights can be emphasized. The exercise asked for ways to improve awareness and thus the note should include recommendations (e.g., safety orientation, poster awareness program, etc.).

**Case Studies**

***Case Study 1: Workplace Tragedy***

This is a high-risk work environment that involves high-risk occupational health and safety work practices. It is the employer's legal obligation to ensure that the workplace is safe. Employers are responsible for ensuring the health and safety of all workers and any other workers at a workplace where the employer's work is being carried out; this involves establishing an occupational health and safety program (described below), providing a healthy and safe working environment, and providing instruction and training to supervisors and workers. Business owners are responsible for providing and maintaining the land and premises being used as a workplace in a manner that ensures the health and safety of anyone at or near the workplace.

According to BC's *Workers' Compensation Act*, an employer must meet the standard of due diligence. To meet this standard, an employer must take all reasonable care to protect the well-being of workers. An ongoing occupational health and safety program that controls specific hazards in the workplace forms the basis of due diligence. An employer that has all the occupational health and safety program elements required by the regulation in effect, and working well, is acting with due diligence. The minimum occupational health and safety program elements are outlined below:

- Statement of Aims and Responsibilities
- Inspection of Premises, Equipment, and Work
- Written Instructions
- Management and Safety Committee Meetings

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- Investigation of Accidents/Incidents
- Maintenance of Records and Statistics
- Instruction and Supervision of Workers

The employer/HRM must promptly conduct an accident investigation (and also investigate past accidents and continue to investigate all incidents and near misses). These investigations will help determine why the accident (or incidents/near misses) happened so that the employer/HRM can ensure that these accidents will not occur in the future. An accident report needs to be completed that includes recommendations for corrective measures. Fatalities are rare, but incidents and near misses are very common. The employer allowed the accident-prone crane to continue to operate without taking any action to ensure the safety of the workers. The focus should have been on correcting the incidents and near misses so that lost-time accidents, permanent disabilities, and fatalities do not occur. This case illustrates the importance of leadership, communication, and business decisions that support workplace occupational health and safety. The employer/HRM must establish an occupational health and safety program, keeping in mind that an occupational health and safety program is more than a written document and must be part of employee behaviour (involvement and accountability). It must meet the standards of due diligence. Refer to the Canadian Centre for Occupational Health and Safety's fact sheet on due diligence at http://www.ccohs.ca/oshanswers/legisl/diligence.html.

***Case Study 2: Work Refusal at Regional Hospital***

Employees may refuse to carry out any task they believe is unduly hazardous to the health and safety of any person; in such a case, they must inform the employer. The employer/HRM must immediately investigate and correct the situation without delay. The employer/HRM is required to develop and implement an exposure control plan to address the specific risks and hazards faced by workers in these work settings. Employees need to be educated and provided with specific information from specialists and experts concerning health and safety issues about their workplace. They need to be shown how to prevent unsafe conditions and provided with examples of safe work practices. Objective and immediate communication channels and staff forums need to be established where employees can talk about these concerns and what they feel uncomfortable about. All fears, concerns, social issues and discomfort, biases, and beliefs need to be dealt with until the employees feel safe. The critical issue in this situation is that the employees were afraid to enter their workplace. They believed that their workplace was unsafe, whether it was or was not safe. Unless the employer/HRM conducts a thorough investigation, educates the employees, and implements an exposure control plan in which the employees feel safe, the work refusal will continue. The organization may need to include controls that may not be necessary but make the employees feel safe. If a worker refuses to perform a task that he or she believes is unsafe, the employer can suggest another approach, but cannot discipline, reduce the worker's wages, change working hours, or suspend the worker. The regulation also provides the following rights to employees: job-protected leave, no penalties for emergency leave, and payment for those not working because of quarantine (WorkSafeBC Occupational Health and Safety Regulation: Section 3.12 to 3.13).

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**Cumulative Assignment: Well-Mart**

**Need Assessment**

1. Who are the various stakeholders at Well-Mart? Describe each stakeholder's duties and responsibilities.

Answer: Students should include information about employers, supervisors, and workers as stakeholders, and the related duties. It is important to note how the responsibilities can change depending on the jurisdiction. Ontario, for example, has extensive employer responsibilities; however, all federal and provincial or territorial OH&S acts include prescribed duties that may come into effect by regulation at some time. These prescribed duties may include an employer's responsibility to establish occupational health services, or a description of the written procedures that may be required. In general, employers have a primary duty to provide a safe work environment, which means that they have a general duty to require Well-Mart to take every reasonable precaution to ensure every employee is safe. Employers are also responsible for providing training, supervision, education, training, and written instructions where applicable, and assisting the joint occupational health and safety committee.

Supervisor (e.g., the person in charge of a workplace with authority over a worker) duties, similar to an employer's duties, can be specific to a particular province; however, generally they include the duty to "ensure, where it is reasonably practicable, the health, safety and welfare of all workers under his or her supervision." Specific duties include advising workers of safety hazards, providing instructions about safety precautions, and ensuring that workers use protective equipment.

Worker duties are included in most statutes, and in some jurisdictions are laid out by regulation. Under the *Canada Labour Code*, worker duties include:

- properly using the safety equipment and clothes provided
- taking all reasonable precaution to ensure their own health and safety and that of those who may be affected by their work activities
- reporting hazards, such as defective equipment, to the employer
- reporting any contraventions of the act or regulations
- reporting to the employer work-related incidents and occupational diseases
- cooperating with health and safety policy, committees, and persons carrying out duties required by the code.

2. Do you think it's important for Well-Mart to have a joint health and safety committee? Why or why not? Are they any legal obligations for the company to establish a health and safety committee?

Answer: Yes, it is important as Well-Mart employs 32 people. Joint health and safety committees in the workplace are required by law in most jurisdictions in Canada. Depending on the province in which Well-Mart is located (assume it's the province in which the student is studying or the province of the educational institution) the requirements will differ. The requirement largely depends on company size and jurisdiction. Most provinces require a JOHS committee when there are 20 or more employees; however, some jurisdictions have provisions wherein smaller organizations can be required to have a JOHS committee or when it is required by a governing body. Occupational health and safety legislation regulates the formation and composition of the joint committee. Legislation typically mandates that joint committees are structured in such a way that equal or better representation is required from workers who do not exercise managerial responsibilities.

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