



Guide to Workplace Health & Safety Representatives



WCB Information Series publication

Guide to Occupational Health and Safety Representatives

Internal Responsibility System	2
Benefits of a Health and Safety Representative	3
Legislated Requirements	3
Employers Duties in Maintaining a Health and Safety Representative	4
Duties of a Health & Safety Representative	5
The Health and Safety Program	5
Refusal-to-Work Situations	6
Important points about Health and Safety Representatives	7
What the Employer Can Do to Help	8
APPENDIX A - Rights and Responsibilities under the Occupational Health and Safety Act	9

Purpose

The purpose of an Occupational Health and Safety Representative is to direct attention to safety issues and facilitate communication between the owner, supervisor or manager, and the workers on safety issues. This will help reduce losses resulting from incidents, injuries and occupational illness. This guide will outline the legislated requirements and provide information on how a Health and Safety Representative can make an effective contribution to health and safety in your workplace.

Under Section 26 of the *Occupational Health and Safety Act*, a Health and Safety Representative is required in a workplace employing between five and 19 workers. Workplaces with 20 or more workers are required to maintain a Safety Committee.

Employers with five or more workers are also required to develop a Health and Safety Policy. For details on the Policy, see Section 24 of the *Occupational Health and Safety Act* or obtain a copy of the "Guide to Health and Safety Policy" available on our website at www.wcb.pe.ca.

Education sessions on the duties and functions of a Health and Safety Representative are available from the Workers Compensation Board. Call the OH&S Education Consultant at (902) 368-5697 or 1-800-237-5049

Internal Responsibility System

The Internal Responsibility System is the philosophical foundation of the *Occupational Health and Safety Act*. It is based on the principle that all persons in the workplace have a responsibility for health and safety in their environment. The persons doing the work are most often aware of the hazards and the solutions to them.

The heart of the Internal Responsibility System is communication between workers and employers. The role of the Health and Safety Representative is to identify occupational health and safety concerns with fellow workers and help find a solution to them with the employer or supervisor.

Benefits of a Health and Safety Representative

Communication is the key to an effective health and safety system. The Health and Safety Representative provides a link between workers and management. This encourages the people who know the most about the work to give input on the safety environment.

The Health and Safety Representative brings health and safety issues into the open to have them resolved. In turn, this improved communication benefits production and contributes to the sense of teamwork in the workplace.

Benefits may include:

- Reduced workplace injuries and illnesses
- Improved awareness of health and safety issues in the workplace
- A broader base of expertise and experience for solving health and safety problems
- Improved co-operation through better communication
- An opportunity for workers to express health and safety concerns and have them addressed. This can help identify risks before they ever become injuries or illnesses.

Legislated Requirements

How is a Health and Safety Representative selected?

Section 26 of the Occupational Health and Safety Act states:

..where the number of persons employed is five or more, the employer shall require the workers to select at least one health and safety representative from among the workers at the workplace who do not exercise managerial functions.

A Health and Safety Representative must be selected by workers from workers who have no managerial functions. If the workplace is unionized, the union may appoint the representative. The Health and Safety Representative is expected to discuss health and safety issues with co-workers and speak on their behalf to management.

In the case of constructors working on a construction project employing between five and 19 people that is expected to last over three months, there is a requirement to have a Health and Safety Representative appointed for that project. This may mean that some workers could be on a site safety committee for all the trades on site and acting as a Health and Safety Representative for their own company. This is because of the high risks on construction sites, particularly on large sites where many constructors are doing different jobs.

The Workers Compensation Board's Director of Occupational Health and Safety may require a Health and Safety Representative to be established at a work place with fewer than five workers if it is deemed necessary to maintain health and safety.

The requirement for a Health and Safety Representative relates to workplaces not necessarily employers. Under this definition an employer with 30 workers working out of three sites would require a Health and Safety Representative for each site with between 5 and 19 workers. This employer will need to develop a safety program (Section 23 of the OHS Act). Part of the Health and Safety Representative's duties would be to provide input in the development of the program.

How does a Health and Safety Representative handle worker concerns?

Section 26(6)(f) of the *Occupational Health and Safety Act* states that a Health and Safety Representative, after consultation with co-workers, may make a written recommendation to the employer about a health and safety issue with a request for the employer to respond in writing. Under Section 27 of the Act, the employer must respond to the Health and Safety Representative in writing within 30 days. The response must indicate acceptance of the recommendation or give reasons for disagreement and propose an alternative. Where it is not possible to provide a response within 30 days, a reason for the delay and a time frame for a response must be given.

If the Health and Safety Representative is not satisfied with the response to a written request under reasonable circumstances, this should be reported to an Occupational Health and Safety Officer.

It is recommended that the Health and Safety Representative meet regularly with the employer or supervisor to enhance communication about health and safety matters. There may be particular times of the year, if your business is subject to seasonal changes, that you will meet less or more often. It is also recommended that a record of the meetings be kept and the information on what is done about concerns discussed be made available to workers.

Employers Duties in Maintaining a Health and Safety Representative

Under Sections 26 and 27 of the *Occupational Health and Safety Act*, the employer has duties with respect to supporting, involving and communicating with the Health and Safety Representative:

- The employer must notify the Health and Safety Representative of all reports on inspections, monitoring and testing and make them available to him or her.
- The employer must post the Health and Safety Representative's name and contact information and all reports in a location accessible to workers.
- The employer must grant the Health and Safety Representative paid leave for meetings and training required while carrying out the Health and Safety Representative duties.
- The employer must allow the Health and Safety Representative the opportunity to accompany an Occupational Health and Safety Officer or any person doing a health and safety inspection while they are onsite.

Duties of a Health & Safety Representative

Overall, the Health and Safety Representative is intended to be involved in occupational health and safety matters in the workplace on behalf of workers. This involvement is achieved through the activities stated at Section 26(6) of the *Occupational Health and Safety Act* and are summarized below:

- **Involve** co-workers in health and safety issues in the workplace. The Health and Safety Representative acts as the eyes and ears of safety. Any concerns can be addressed to the Representative.
- **Identify** hazards with co-workers and meet with the employer or supervisor to develop solutions.
- **Advise** the employer on personal protective devices or equipment such as hearing protection, respirators or lock-out procedures necessary for safety and health. This will involve discussion with co-workers about what works and what is needed and knowledge of the Occupational Health and Safety regulations.
- **Make** suggestions for the improvement of health and safety.
- **Assist** with the development of health and safety policies and programs where they are required.
- **Attend** *Right to Refuse* situations.
- **Meet** regularly with your employer or supervisor.
- **Participate** in workplace inspections and incident investigations where these are required. Although inspections and incident investigations are recommended practice in all workplaces, they must be done if the employer employs more than 20 people. All incidents have many causes, and investigations and inspections can help prevent the next one.

The Health and Safety Program

Section 23 of the *Occupational Health and Safety Act* requires any employer with 20 or more employees to establish a health and safety program. See the “Guide to Workplace Health and Safety Programs” for assistance in setting up a program available from our website at www.wcb.pe.ca.

Essentially, a Health and Safety Program consists of several components:

- Health and Safety Representatives (or a Safety Committee, whichever is applicable)
- A means to identify hazards and develop written work procedures for them
- A means to investigate incidents and inspect workplaces, and
- Written documentation of all these components, plus the means for follow up, record keeping and training

What is the Health and Safety Representative's role in the Program?

The role of the Health and Safety Representative in the program is to monitor its effectiveness. The Health and Safety Representative is not responsible for developing the program unless specific time and resources are allocated to them. The program is the responsibility of the employer, and it is always recommended that a person be assigned to coordinate it. An outside consultant can be brought in to assist with development.

The Health and Safety Representative contributes to the program by:

- Assisting with inspections and contributing to recommendations and follow up.
- Participating in investigations when incidents occur, and contributing to the recommendations resulting from the investigation.
- Reporting hazards and contributing to the recommendations to correct them.
- Consulting with co-workers on all the above.

A person designated as coordinator for the program often maintains the documentation, creates written work procedures with the input of the workers and the Health and Safety Representative, and ensures training is done and records are kept. One difference between Health and Safety Representatives and Safety Committees is that there is no requirement for minutes for the Representative's meetings with the employer or supervisor. However, any employer would be wise to record meetings to demonstrate that they have taken place and to have a record of what has been done to address concerns.

Refusal-to-Work Situations

Any worker has the right and the responsibility to refuse work if that worker believes the work is dangerous. The Health and Safety Representative plays a part in the decision-making process towards resolving the issue. The process is:

1. If a worker believes a task or situation is dangerous to his or her safety or the safety of others, he or she must report the concern to the supervisor immediately. The worker then goes to a safe place but stays at the workplace as he or she may be assigned to do other work.
2. The supervisor must investigate the work refusal promptly and in the presence of the worker. If the supervisor agrees with the worker, and finds it unsafe, the problem must be fixed before any more work can be carried out.
3. If the supervisor disagrees with the worker and believes the task is safe and the worker still feels unsafe, the concern is reported to the Health and Safety Representative. The supervisor may ask another worker to do the job only if he informs the other person of the reasons for the refusal.

4. The Health and Safety Representative is expected to investigate the situation. If he or she agrees with the refusal, a recommendation to fix the problem must be made. If he or she believes the task is safe, suggestions to ensure safety may be made and the worker will be advised by the supervisor to return to work. There will be cases when the Health and Safety Representative is unsure. In these cases, the persons involved should consult standards, Material Safety Data Sheets (MSDS), if applicable, and review procedures or call an expert to help with the decision.

5. If the worker, the Health and Safety Representative, or the supervisor still feels the task is unsafe, and the problem is not resolved, the Occupational Health and Safety Division of the Workers Compensation Board must be called at 902-368-5697. If the situation occurs outside normal working hours, use the 24-hour emergency number at 902-628-7513. **The OH&S Officer will request that the Health and Safety Representative be consulted before responding.**

When the above steps have been followed, the OH&S officer will investigate the concern as soon as possible and make a recommendation either to correct the situation or advise the worker to return to work. The worker exercising the right to refuse is protected from recrimination by the *Occupational Health and Safety Act* to the point where the OH&S Officer advises him or her to return to work.

Important points about Health and Safety Representatives

The Health and Safety Representative's main function is to contribute to the improvement of health and safety through consultation and discussion with fellow workers and the employer. It is essential to keep worker/management issues separate.

The Health and Safety Representative is an advisor. He or she does not have the authority to dictate changes. The role is to make recommendations on the behalf of workers regarding matters involving workplace health and safety. This means that the Health and Safety Representative cannot be held responsible for employer violations of the *Occupational Health and Safety Act*.

The Health and Safety Representative is not responsible for discipline regarding health and safety. His or her role is to be the eyes and ears of safety concerns. Addressing problems with compliance on safety procedures or personal protective equipment is the responsibility of supervisors or owners.

Training is recommended for Health and Safety Representatives. The most common topics are Occupational Health and Safety legislation, WHMIS, first aid and hazard identification. The training is done on paid work time.

What the Employer Can Do to Help

The employer can assist the Health and Safety Representative by:

- Providing training specific to the work site (some examples may include fall protection, confined space, office ergonomics, WHMIS, or general training on the Act and Regulations).
- Posting the Health and Safety Representative's name and informing workers about the representative's role.
- Scheduling regular meetings to discuss promotion of health and safety as well as health and safety concerns.
- Supporting the Health and Safety Representative in his or her work to enhance health and safety by demonstrating a commitment to safety.

APPENDIX A - Rights and Responsibilities under the *Occupational Health and Safety Act*

Worker responsibilities:

- Report unsafe conditions
- Follow safe work procedures
- Use personal protective equipment when necessary

Worker rights:

- The right to know about potential hazards.
- The right to participate in making the workplace safe and healthy. This participation can be in the form of being a safety representative or in consultation with the employer, supervisor or health and safety representative.
- The right to refuse unsafe work. There is a protocol to follow in refusing unsafe work:
 - Inform the supervisor.
 - If he/she is unable to resolve the problem call in the Health and Safety representative for an opinion.
 - If the issue is still unresolved you must stay in the workplace while the OH&S officer is called in to make a determination. The employer has the right to assign you to alternate work and can ask another worker to do your work provided he informs him or her of your concerns.

Employer Responsibilities:

The *Act* requires employers to ensure health and safety of persons at the workplace.

Employers are required to:

- Provide and maintain equipment, machines, and materials in a safe manner.
- Provide training and supervision necessary to ensure the health and safety of workers.
- Ensure that workers, particularly supervisors, are familiar with workplace hazards and the proper use of any protective equipment.
- Operate the business so workers are not exposed to health or safety hazards.

*For details on responsibilities, consult the
Occupational Health and Safety Act and Regulations.*



14 Weymouth Street, P.O. Box 757
Charlottetown, Prince Edward Island C1A 7L7

Telephone: 902-368-5680
Toll Free in Atlantic Canada: 1-800-237-5049
Fax: 902-368-5696
Website: www.wcb.pe.ca