

POLICY NUMBER: POL-119

Chapter:
WORKPLACE SAFETY AND PREVENTION

Subject:
PROSECUTION

Effective Date:
February 12, 2004

Last Update:
November 18, 2023

REFERENCE:

Occupational Health and Safety Act R.S.P.E.I.1988, Cap. 0-1.01, Section 43.
Smoke Free Places Act R.S.P.E.I. 2002, Cap. S-4.2, Section 13.

DEFINITION:

In this policy:

“Chief Inspector” means a person appointed by the Minister designated to administer the *Smoke Free Places Act*.

“Officer” means an occupational health and safety officer appointed pursuant to the *Occupational Health and Safety Act* and includes the Director of Occupational Health and Safety.

“Order” means an oral or written directive which is issued by an Occupational Health and Safety Officer, who has determined that a workplace is in contravention of the *Occupational Health and Safety Act*, and Regulations.

POLICY:

1. The decision and authority to prosecute contraventions of the *Occupational Health and Safety (OHS) Act* and Regulations rests solely with the Office of the Attorney General.
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2. The role of the Workers Compensation Board (WCB), under the OHS Act, is to make recommendations to the Crown Attorney assigned to the case by the Office of the Attorney General.
3. The role of the WCB, under the *Smoke Free Places Act*, is to make recommendations to the Chief Inspector.
4. The WCB is responsible for thoroughly examining the facts of the case prior to making a recommendation to prosecute and for ensuring the recommendations made are consistent within all workplace sectors and circumstances.
5. The need to consider prosecution is necessary in the following circumstances:
 - An employer or worker fails to comply with the OHS Act by contributing to an accident which caused serious or fatal injury to a worker.
 - An employer or worker refuses or fails to comply with an order.

HISTORY:

November 18, 2023 – Non-substantive changes for readability.

June 8, 2017 - Non-substantive changes to reference section.

March 16, 2009 - The policy was reviewed as a result of the 60-month policy review process. No substantive changes were made to the policy during this review.

Board of Directors Approval Date: February 12, 2004.