

Canadian Farm Builders Association Presentation - What a Builder/Contractor needs to know

Vince La Tona
Regional Program Coordinator
Construction Health and Safety Program
Windsor, London, Kitchener/Waterloo
Ministry of Labour
Direct Line: 519-977-8114

Safe At Work Ontario
Enforcement > Compliance > Partnership >

Ministry of Labour



Disclaimer

1. The purpose of today's presentation is to assist the workplace parties in understanding their obligations under the Occupational Health and Safety Act (OHSA) and its regulations. It is not intended to replace the OHSA or the regulations, and reference should always be made to the official versions of the legislation.
2. It is the responsibility of the workplace parties to ensure compliance with the legislation and the presentation does not constitute legal advice. If you require assistance with respect to the interpretation of the legislation and its potential application in specific circumstances, please contact your legal counsel.
3. Ministry of Labour inspectors will apply and enforce the OHSA and its regulations based on the facts as they may find them in the workplace. This presentation does not affect their enforcement discretion in any way.

Overview

- MOL Overview / Occupational Health and Safety Act.
- Powers of an Inspector
- Constructor, Employer, Supervisor, Worker duties
- Types of Workplace Visits
- Construction Projects on Farming Operations
- Resources

Occupational Health and Safety Act

- The main purpose of the OHS Act is to protect worker health and safety.
- It applies to all workplaces in Ontario except federally regulated workplaces (e.g. banks, post offices, etc.) and work in the private home, carried out by an owner/occupant or servant of an owner/occupant.
- The OHS Act places specific duties on those who have any degree of control over the workplace – such as employers, supervisors, workers, constructors, owners and directors of corporations.

Key Features of the OHSA

- Sets out the basic duties of employers, constructors, supervisors.
- Sets out basic duties and rights of workers.
- Sets out requirements to address workplace violence and harassment.
- Establishes MOL's mandate to prevent occupational injuries and diseases.
- Prohibits reprisals by employers.
- Provides for enforcement by inspectors.
- Establishes offences and penalties.
- Provides authority to make regulations (which set out in detail how the general duties in the OHSA are to be carried out).

The Internal Responsibility System

- The underlying philosophy of the OHSA is known as the Internal Responsibility System (IRS).
- IRS recognizes that the workplace parties are in the best position to identify and resolve health and safety issues.
- Ideally, the internal responsibility system involves everyone at the workplace, including employers, supervisors, workers, etc.
- The joint health and safety committee, or, in smaller workplaces, the health and safety representative, has a role to play by monitoring the IRS.

Powers of Inspectors

- MOL inspectors have broad powers to:
 - Enter any workplace without appointment and inspect for compliance with OHS and its regulations.
 - Handle or use any equipment/machinery; take away samples.
 - Interview workplace parties.
 - Look at documents, records, take photographs.
 - Require expert testing of equipment, workplace environment and production of reports.
 - Issue orders (e.g., immediate or time-based compliance; stop-work) and use other enforcement tools (i.e. Part I tickets, Part I summons, Part III prosecution).
- Inspectors investigate complaints, critical injuries, fatalities, reports of occupational illness and work refusals.
- Decisions of inspectors can be appealed to the Ontario Labour Relations Board.

What the inspector may look for

- Posting requirements (Act, posters, reports)
- Administrative requirements JHSC/Health & Safety representative
- Awareness and specific training (equipment, WHMIS, personal protective equipment)
- Maintaining equipment in good condition (chain saws, lawn mowers, trimmers, chippers, radial saws)
- Equipment guarding and or **Engineering (CSA standards)**
- Working at height (ladders, aerial devices, booms, rigging)
- Traffic and pedestrian control (mobile equipment)
- MSD (Musculoskeletal Disorders / Ergonomics)
- Violence in the workplace (program and policy)

Duties of Employers

- Key Duties of Employers:
 - Take every precaution reasonable in the circumstances for the protection of workers.
 - Provide, where prescribed by regulation, equipment, materials and protective devices.
 - Maintain equipment, materials and protective devices.
 - Ensure proper use of equipment, materials and protective devices.
 - Ensure prescribed measures and procedures are carried out.
 - Provide information, instruction and supervision to workers.
 - Acquaint workers and supervisors with hazards in workplace.
 - Notify MOL of workplace fatalities, critical injuries and occupational illnesses.
 - Co-operate with the joint health and safety committee or worker health and safety representative and respond to recommendations.
 - Develop occupational health and safety policy and program (where 6 or more workers).
 - Develop a policy and program respecting workplace violence and harassment.

Constructor

- **Who is a constructor?**
- The intent of the [Occupational Health and Safety Act](#) is to have **one** person with overall authority for health and safety matters on a project. This person is the **constructor** of the project.
- **Does every construction project have an owner and a constructor?**
- Every project that is governed by the Act has both an owner and a constructor. The constructor will either be the owner of the project or a third party contracted by the owner to undertake the project for the owner.
- However, an owner who engages an architect, professional engineer or other person solely to oversee the quality control of the work at a project does not necessarily become a constructor (subsection 1(3) of the Act). Such an owner could engage a third party as a constructor as well as the person engaged only to oversee the quality control of the project.

Constructor Continued...

- When an owner undertakes a project by contracting with more than one employer (contractor), the owner is undertaking the project and is the constructor.
- In summary, on **all** projects, either the owner or someone hired by the owner is the constructor. However, if the work is being performed by a homeowner or occupant (or a servant of either) in or about a private residence the Act does not apply in respect of that work.
- Everyone involved with a construction project should be clear on who is undertaking the project, who the constructor is, and the responsibilities of all of the parties associated with the project. It is important to put this information in writing.

Constructor Continued...

Among other things, constructors are required to:

- Ensure that the workplace health and safety measures and procedures required by law are carried out on the project
- Ensure that every employer and every worker on the project complies with the OHS Act and its regulations
- Ensure that the health and safety of workers on the project is protected
- Give to a Ministry of Labour director notice in writing of a project, containing information required under in the Regulation for Construction Projects, before commencing work on the project
- Ensure that each prospective contractor and subcontractor has received a copy of any designated substances (e.g., lead, silica, asbestos) list before entering into a binding contract for the supply of work on the project
- Appoint a supervisor for every project where five or more workers will work at the same time

Duties of Supervisors

- Key Duties of Supervisors:
 - Ensure that a worker works in compliance with the OHS Act and regulations.
 - Ensure that any equipment, protective device or clothing required by the employer is used or worn by the worker.
 - Advise a worker of any potential or actual health or safety dangers known to the supervisor.
 - Where so prescribed, provide a worker with written instructions about the measures and procedures to be taken for the worker's protection.
 - Take every precaution reasonable in the circumstances for the protection of workers.

Duties of Workers

- Key Duties of Workers:
 - Work in compliance with the OHSA and regulations.
 - Use required equipment, protective devices or clothing.
 - Report hazards and contraventions of the OHSA or regulations to supervisor or employer.
 - Operate equipment and work in a safe manner so that no worker is endangered.
 - Not engage in pranks, contests, rough conduct.
- Key Rights of Workers:
 - Right to Participate in decisions about health & safety.
 - Right to Know about workplace hazards.
 - Right to Refuse unsafe work.

Types of Workplace Visits

Inspections:

- Workplace inspections are proactive visits by an Inspector to review compliance with the OHS Act and its regulations.
- Workplaces may be identified for proactive inspection by:
 - Their history of injuries and fatalities
 - Inherent hazards to their working environment

Investigations:

- Investigations are reactive visits to a workplace in most cases because of a complaint, work refusal, injury, or fatality.

Consultations:

- Consultation may occur before an actual workplace inspection.
- An Inspector may discuss with the employer and/or Joint Health and Safety member the purpose of their visit and may request information for the workplace parties to prepare for their next visit.

Construction of Farming Projects

- The Occupational Health and Safety Act (OHSA) applies to farming operations, subject to certain limitations and conditions. [O. Reg. 414/05, Farming Operations, section 1].
- Generally, the Act and applicable regulations apply to a farming operation where there are paid workers. For example, where there is a paid worker at a farm, even for a short time, the employer and all other workplace parties (e.g., supervisors, suppliers and workers) at that farming operation must comply with all applicable requirements of the Act and regulations.
- This includes workers who are residents of Canada and workers employed in Ontario through one of the federal government's Temporary Foreign Worker Programs such as the Seasonal Agricultural Workers Program.

Farming Continued...

- Bio Security
 - MOL inspector(s) carry all the necessary equipment and are required to adhere to any bio-security measures implemented by the Farming Operation.
- Review of site documentation
 - Inspectors are to identify themselves when coming onto the project and request a supervisor to do a review of required site documentation.
- Site Inspection
 - Request the Supervisor (Worker Representatives if applicable) to accompany them to conduct a site walkthrough of the project.

Web Links

Occupational health and safety information on the Ministry of Labour and Workplace Safety and Prevention Services (WSPS) website

[Ontario.ca/healthandsafetyatwork](https://www.ontario.ca/healthandsafetyatwork)
[Workplace Safety & Prevention Services](https://www.ontario.ca/workplacesafetyandprevention)

Information about the Ministry of Labour's strategy, Safe at Work Ontario, for enforcing the Occupational Health and Safety Act

[Ontario.ca/SafeAtWorkOntario](https://www.ontario.ca/safeatworkontario)

Employment standards information on the Ministry of Labour website

[Ontario.ca/EmploymentStandards](https://www.ontario.ca/employmentstandards)

We Are Here to Help

•Ministry of Labour Health & Safety Contact Centre

- Toll-free, **1-877-202-0008**
Fax, 905-577-1316.
- Call any time to report critical injuries, fatalities or work refusals.
- Call 8:30 a.m. – 5:00 p.m.,
Monday – Friday, for general inquiries about workplace health and safety.
- In an emergency, always call 911.

Employment Standards Information Centre

- GTA: 416-326-7160
Canada-wide: 1-800-531-5551
TTY: 1-866-567-8893.

Need other languages?

- Both the Health and Safety Contact Centre and the Employment Standards Information Centre provide services in multiple languages.

Health and Safety Associations



• Infrastructure Health & Safety Association (IHSA)

- Serves: construction, electrical and utilities, aggregates, natural gas, ready-mix concrete and transportation.
- Toll-free: 1-800-263-5024
- <http://www.ihsa.ca/>
- [on Twitter @IHSAnews](#)



• Workplace Safety & Prevention Services (WSPS)

- Serves: agriculture, manufacturing, and service sectors.
- Toll-free: 1-877-494-9777
- <http://www.wsps.ca/>



Workplace Safety North (WSN)

- Serves (province wide): forestry, mining, smelters, refineries, paper, printing and converting.
- Toll-free (Ontario): 1-888-730-7821
- <http://www.workplacesafetynorth.ca/>
- [on Twitter @WSN News](#)



Public Services Health & Safety Association (PSHSA)

- Serves: hospitals, nursing and retirement homes, residential and community care, universities and colleges, school boards, libraries and museums, municipalities, provincial government and agencies, police, fire and paramedics and First Nations.
- Toll-free: 1-877-250-7444 | Toronto: 416-250-2131
- <http://www.pshsa.ca/>
- [on Twitter @pshsa1](#)

Questions ?