OHS Legislative Responsibilities

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Specific Duties of Employers – *OHS Act*

Section 5

(a) shall, where it is reasonably practicable, provide and maintain a workplace and the necessary equipment, systems and tools that are safe and without risk to the health of his or her workers;

(b) shall, where it is reasonably practicable, provide the information, instruction, training and supervision and facilities that are necessary to ensure the health, safety and welfare of his or her workers;

(c) shall ensure that his or her workers, and particularly his or her supervisors, are made familiar with health or safety hazards that may be met by them in the workplace;

Specific Duties of Employers - *OHS Act*

(d) shall, where it is reasonably practicable, conduct his or her undertaking so that persons not in his or her employ are not exposed to health or safety hazards as a result of the undertaking;

(e) shall ensure that his or her workers are given operating instruction in the use of devices and equipment provided for their protection;

(f) shall consult and co-operate with the occupational health and safety committee, the worker health and safety representative or the workplace health and safety designate .....

Employer's General Duty – *OHS Regs*

14. (1) An employer shall ensure, so far as is reasonably practicable, that all buildings, structures, whether permanent or temporary, excavation, machinery, workstations, places of employment and equipment are capable of withstanding the stresses likely to be imposed upon them and of safely performing the functions for which they are used or intended.

(2) An employer shall ensure that necessary protective clothing and devices are used for the health and safety of his or her workers.

Employer's General Duty – *OHS Regs*

14. contd.

(3) The employer shall ensure that safe work procedures are followed at all workplaces.

(4) An employer shall ensure, so far as is reasonably practicable, that work procedures promote the safe interaction of workers and their work environment to minimize the potential for injury.

Employer's Responsibility – *OHS Regs*

25. (1) An employer shall ensure that

(a) an occupational health and safety committee is established;

(b) a worker health and safety representative is appointed; or

(c) a workplace health and safety designate is designated; and

(d) a copy of the *(OHS)* Act and regulations under the *(OHS)* Act are easily accessible to an employee.

(2) Minutes of all regular meetings ..recorded....kept on file .... filed with the commission and ....posted in a prominent place....

Municipalities as Employers

- Per the provisions of the *Municipalities Act* a municipal council is viewed as an employer if the municipality has one or more "employees"

- A person acting in the capacity of "town manager" and others who oversee, direct or assign work would be considered to be supervisors from an OHS perspective

Specific Duties of Supervisors – *OHS Act*

5.2

(a) advise workers under his or her supervision of the health or safety hazards that may be met by them in the workplace;

(b) provide proper written or oral instructions regarding precautions to be taken for the protection of all workers under his or her supervision; and

(c) ensure that a worker under his or her supervision uses or wears protective equipment, devices or other apparel that this Act, the regulations or the worker's employer requires to be used or worn.

Worker's Specific Duties – *OHS Act*

6. A worker, while at work, shall take reasonable care to protect his or her own health and safety and that of workers and other persons at or near the workplace.

7. (a) shall co-operate with his or her employer and with other workers in the workplace to protect

(i) his or her own health and safety,

(ii) the health and safety of other workers engaged in the work of the employer,

(iii) the health and safety of other workers or persons not engaged in the work of the employer but present at or near the workplace;

Worker's Specific Duties – *OHS Act*

7. (a.1) shall use devices and equipment provided for his or her protection in accordance with the instructions for use and training provided with respect to the devices and equipment;

(b) shall consult and co-operate with the occupational health and safety committee, the worker health and safety representative or the workplace health and safety designate at the workplace; and

(c) shall co-operate with a person exercising a duty imposed by this Act or regulations.

Worker's Specific Duties – *OHS Act*

8. A worker shall not

(a) carry out work where there exists an ***imminent danger*** to his or her or another worker's health or safety or the health or safety of another person; or

(b) operate a tool, appliance or equipment that will create an imminent danger to his or her or another worker's health or safety or the health or safety of another person.

Worker's General Duties – *OHS Regs*

17. (1) A worker shall make proper use of all necessary safeguards, protective clothing, safety devices, lifting devices or aids, and appliances

(a) designated and provided for his or her protection by the employer; or

(b) required under these regulations to be used or worn by a worker.

Worker's General Duties – *OHS Regs*

17. contd.

(2) A worker shall follow the safe work procedure in which he or she has been instructed.

(3) A worker shall immediately report a hazardous work condition that may come to his or her attention to the employer or supervisor.

Employer Responsibilities Summarized

The employer must:

- Provide workers with the tools, equipment and safety devices they need to work safely
- Provide adequate supervision to ensure worker safety and safe work
- Maintain tools, equipment, vehicles, work facilities etc. in safe condition, this means per the manufacturer's specifications
- Provide information, instruction, and training needed to ensure an adequate knowledge of hazards, required associated safety measures and how to work safely
- Take corrective action, which includes discipline, when needed
- Perform inspections and monitoring to ensure safe work and working conditions
- Cooperate with OHS Committees, Reps and/or Designates

Employer Responsibilities Summarized

The employer must have policies and processes in place:

- To ensure the appropriate recognition, evaluation and control of hazards
- To ensure adequate information, instruction and training is provided to workers
  Examples:
  - Safe Work Procedures
  - Toolbox talks
  - Pre-job familiarization with work processes, tools and/or equipment operation
  - Formal in-services
  - External training providers
  - Supplier/manufacturer support services
  - Worker qualifications requirements
  - Tender requirements

Employer Responsibilities Summarized

Ensure processes are adequate to dealing with new information or changes, supervisors normally play a key role in change management

- The employer must identify changes impacting on safety and adequately inform its supervisors
- Supervisors must ensure their workers are knowledgeable as to changes impacting on their work and safety

  (Note: This may necessitate providing staff with the resources, information, instruction and/or training needed to ensure staff understand new or changed safety measures, work processes, tools, equipment, vehicles etc. and have what they need to stay safe)
- Supervisors must ensure workers make the changes needed to stay safe and ensure the employer knows what is needed to ensure worker safety

Supervisor Responsibilities Summarized

Supervisors must:

- Inform workers of hazards
- Provide written and verbal instructions needed to ensure safety
- Ensure workers work safely and wear needed PPE
- Monitor and inspect work to ensure safety
- Take action to address safety issues as they are identified or reported
- Keep records of what they do to ensure safety

Note: Enhanced supervisory requirements since 2009

Who is a supervisor?

Anyone who:

- Assigns work

AND/OR

- Directs when or how work is to be performed

Worker Responsibilities Summarized

Employees must:

- Work safely
- Cooperate with the employer, supervisors and other workers to ensure safety
- Properly use items and PPE provided, or needed, to ensure their safety
- Consult and cooperate with workplace OHS representatives
- Immediately report identified safety issues to their supervisor
- Take appropriate action to ensure serious safety issues are properly addressed

Principal Contractor Responsibilities

A principal contractor is an employer who compensates, hires, tenders, pays and/or contracts a person, people and/or a firm, to do work on its behalf.

- Compensation can be in various forms!
- If the municipality compensates a person, people and/or a firm other than its employees to do work on its behalf it becomes a principal contractor
- The outside entity performing work on the municipality's behalf is by definition a contractor

Duty of Principal Contractor – *OHS Act*

10. A principal contractor engaged in a project shall ensure, where it is reasonably practicable for him or her to do so, that employers, workers and self-employed persons performing work in respect of that project comply with this Act and the regulations.

- A principal contractor must ensure work is performed safely and in compliance with the OHS legislative requirements

How does a principal contractor ensure safety?

- Check safety records before awarding work
- Check for relevant documents e.g. job hazard analysis, safe work procedures, risk assessments, training/certification records
- Determine what the requirements are and ensure they are met
- Monitor and inspect the work at frequencies appropriate to risk
- Ensure adequate supervision
- Ensure safety meetings take place and are recorded
- Ensure compliance with the owner's manual for tools, machinery etc.
- Take action to correct deficiencies
- Record what you do to ensure safety!!!

How does a principal contractor ensure safety?

Pre-job:

- Ensure job hazard analysis and risk assessments are performed
- Ensure plans are in place to address the hazards identified in order of priority which is to be based on assessed risk
- Ask for Safe Work Procedures for what is worst first
- Determine the safety requirements and ensure they are met
- Ensure plans and resources are in place to deal with emergencies
- Obtain Letter of Good Standing
- Obtain Compliance Profile

Job Hazard Analysis

- First, get the assistance of one or two people trained and experienced in the job at hand
- Second, break the job down into steps, the more steps the better the result
- Third, for each step identify all the hazards that come to mind
- Fourth, for each hazard identify the safety measures needed to eliminate it and if that is not possible reduce the risk to a safe level
- Fifth, prioritize safety measures based on what is most hazardous first and what the legislation requires
- Sixth, use job hazard analysis results to draft Safe Work Procedures

Risk Assessment

- This is a way to rank hazards
- Helps to deal with what is worst first
- Risk is determined by how likely something is to happen and how bad the outcome can be if it does happens
- Probability (how likely), simple example: 1 = not likely, 2 = 50/50 chance of happening, 3 = will likely happen sometime
- Severity (how bad), simple example: 1 = little harm/damage, 2 = moderate harm/damage, 3 = severe harm/damage
- Risk = Probability x Severity

Risk Assessment Example

There is a break in the main water line located in the middle of the two lane main highway going through town. To repair the break one lane of traffic will have to be closed with motorists diverted around the work zone one lane at a time. What is the risk of not using proper traffic control measures based on the Traffic Control Manual?

- Risk = Probability x Severity
- Probability (of getting struck) = 2
- Severity (how badly a worker can get hurt if struck) = 3
- Risk is: 2 x 3 = 6 this means it is an important issue to address
- In this example the highest possible score is 9 and the lowest is 1

How does a principal contractor ensure safety?

During the Job:

- Monitor Safety Performance
- Attend safety talks
- Inspect the work/site at a frequency appropriate to risk
- Take action to correct deficiencies!!!!! Call OHS if necessary.
- Keep records of what you do

How does a principal contractor ensure safety?

- After the job:
  - Determine what went right and wrong from a safety perspective
  - Determine what caused things to go wrong
  - Determine how best to prevent what went wrong
  - Put measures in place to prevent what went wrong from happening again
  - Make sure what went right happens again

OHS Consultants

Can you hire someone to take care of all your OHS responsibilities?

- A municipality can contract out some or most of its OHS responsibilities, but not all.
- If an OHS consultant is hired the municipality must:
  - Check to ensure the consultant has the necessary knowledge, experience and training
  - Require the consultant provide you with a plan outlining what they are going to do to ensure safe work and OHS legislative compliance
  - Check to ensure the consultant does what they said they were going to do
  - Occasionally check on the work to ensure safety and compliance

Newfoundland Labrador

Questions?

Thank you!