

The Leadership Factor: Occupational Health and Safety Begins with Us

This OSACH Fast Fact is intended to help JHSC members, supervisors, managers, and other workers understand the role of the employer in OH&S.

The amendment of the Occupational Health and Safety Act (OHSA) in January 1991 introduced responsibilities related to occupational health and safety (OH&S) for directors and officers of corporations. In addition, it increased the personal liability of the employer.

Directors and Officers of a Corporation

The OHSA [Sec. 32] states that: "Every director and every officer of a corporation shall take all reasonable care to ensure that the corporation complies with,

- (a) this Act and the regulations
- (b) orders and requirements of inspectors and Directors
- (c) orders of the Minister."

A Corporation is a legal body, incorporated under provincial or federal statute, to carry out a business. The term "directors and officers" usually refers to a group of persons formed as a board to oversee and guide, in a general way, the affairs of the business. This group might be called the Board of Trustees, Board of Directors, Board of Management or Board of Governors.

In some situations, the Ministry of Labour also considers a municipal or county council as "directors of a corporation."

The Board of Directors has a general obligation to oversee and monitor the OH&S program.

To do this effectively, they need:

- information and statistics on health and safety efforts.
- minutes of the JHSC meetings.
- summaries of relevant educational events.
- summaries and analyses of incident, injury and illness reports and claims costs.
- information about regular preventive efforts of supervisors, workers and the employer.
- Ministry of Labour engineering and consultant reports.

Response from the board helps guide the employer.

The Employer

The employer is hired by the board to coordinate and direct the daily affairs of the business. She/he may have a title such as Chief Executive Officer (CEO), President, Administrator or Executive Director. The employer may also be considered "an officer of the corporation."

The OHSA places considerable personal responsibility for the health and safety program on the employer. Sections 25 and 26 of the act list many employer obligations, including:

- Ensuring that equipment, materials and devices are provided, maintained and used, according to regulations.

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- Ensuring the safe and sound condition of the building.
- Providing information, training and supervision to workers.
- Appointing and cooperating with the JHSC.
- Appointing a competent person when appointing a supervisor.
- Taking every precaution reasonable under the circumstances for the protection of a worker.

Other responsibilities include:

- Establishing a JHSC [Sec. 9].
- Ensuring that workers are trained in handling hazardous materials and that workers have access to copies of current material safety data sheets, in addition to consulting with the JHSC [WHMIS Reg. 860].
- Providing timely information to the JHSC and the trade union on fatalities, critical injuries, disabling and medical aid injuries and occupational illnesses [Sec. 25].

The employer may not have access to any worker's health record unless the worker consents or a court orders it.

This is only a partial list of the employer's responsibilities. The Ministry of Labour considers the employer ultimately responsible for successes and failures in OH&S. These responsibilities may be delegated to a Health and Safety Professional who must also be provided with the resources and power to meet the employer's responsibilities. Delegation does not remove the legislated responsibility for OH&S from the employer. The employer cannot legally delegate their responsibilities for workplace safety to the JHSC.