



Modernization of the *Workers' Compensation Act and Occupational Health and Safety Act*

The Government of Yukon is looking to modernize and amalgamate the *Workers' Compensation Act* and the *Occupational Health and Safety Act*. Our goals are to:

- enhance worker safety;
- reduce workplace incidents and injuries;
- improve services for our clients;
- reduce red tape and delays for workers and employers; and
- continue to responsibly manage the Compensation Fund

With these goals in mind, we are proposing to modernize occupational health and safety (OHS) legislation to enhance worker safety by updating provisions aimed at improving safety culture in Yukon workplaces.

This document is meant to provide some background and an overview of the issues with some possible solutions. Specifically, the following will be discussed:

- clarifying the minimum requirements for safety management systems for employers;
- clarifying the role and duties and training requirements for safety representatives and members of joint health and safety committees;
- improving the consistency in the legislation regarding duties of all workplace parties (employers, workers, etc.), including overlapping and shared duties; and
- clarifying the requirement to protect all persons, such as the public, who may be affected by the hazards of the workplace.

These issues are not exclusive and the group is welcome to explore any additional questions or solutions it considers important.

Safety management systems

Currently under the *Occupational Health and Safety Act* an employer who has 20 or more workers who are regularly employed and are classified under the regulations as an “A” or “B” hazard must develop an occupational health and safety program.

Hazards classifications “A”, “B” and “C” are not defined in the legislation, they are only found in the

regulations. This causes confusion for employers in trying to understand the requirements.

The distinction between “A”, “B” and “C” class hazards is complex and not particularly useful when determining whether an employer should have a workplace health and safety management system.

The Government of Yukon is proposing to base the requirement to have a workplace health and safety management system on the number of workers an employer regularly employs, without reference to the hazard classification.

In addition, the legislation does not specify the elements required for a safety management system.

The Government of Yukon is proposing to establish the minimum elements required for workplace health and safety management systems for employers with 20 or more workers. The minimum elements could include:

- health and safety policies and safe work procedures;
- procedures for regular inspections and hazard identification;
- emergency response plan;
- statement of employer, supervisor and worker responsibilities in the workplace;
- health and safety orientation and training;
- procedures for investigating incidents, injuries and work refusals;
- procedures for participation in inspections, investigations and work refusals; and
- procedures for regularly reviewing health and safety management systems.

The majority of Yukon employers are small, employing fewer than 20 workers. Under the current *Occupational Health and Safety Act*, safety management requirements for small employers are unclear.

The Government of Yukon is proposing to clarify that small employers also require some elements of a safety management system. For employers with fewer than 20 workers, the minimum elements could include:



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- procedures for regular inspections and hazard identification;
- health and safety procedures; and
- health and safety orientation and training.

Question for discussion:

1. What are some benefits and risks to the proposed approach?
2. Do the benefits outweigh the risks?
3. What are some other options to consider?

Joint health and safety committees

The current OHS legislation specifies when an employer must establish a joint health and safety committee. An employer who has 20 or more workers who are regularly employed and are classified under the regulations as an “A” or “B” hazard must develop a joint health and safety committee.

The Government of Yukon is proposing that a joint health and safety committee should be required when 20 or more workers are regularly employed, without reference to the hazard classification.

The purpose of a joint health and safety committee under the *Occupational Health and Safety Act* is to fulfill the worker’s right to participate and assist the employer in managing workplace safety. Currently, the legislation lacks clarity about:

- the role and duties of the committee; and
- orientation and training requirements for members.

The Government of Yukon is proposing to update and modernize the roles and duties of committee members, and clarify the orientation and training requirements.

When it comes to smaller workplaces and the requirement for a safety representative, the current legislation details a complex system based on hazard classification of the employer and number of workers employed: 5, 10 or 15.

The Government of Yukon is proposing that all workplaces with 10 or more workers should be

required to have a designated health and safety representative.

Question for discussion:

1. What are some benefits and risks to the proposed approach?
2. Do the benefits outweigh the risks?
3. What are some other options to consider?

Duties of workplace parties

The Yukon OHS legislation was drafted in 1984 and needs modernization. Aside from its age, it also contains many inconsistencies in the various sections that outline the general duties and obligations of the workplace parties.

Under the *Occupational Health and Safety Act*, employers, workers, supervisors, constructors, owners, suppliers and self-employed persons (“workplace parties”), have certain duties to ensure their workplaces are safe and without risk to health. These general duties are the cornerstone of all OHS legislation. The general duties are intended to be broad. This is in contrast to the specific duties and rules set out in regulations that deal with distinct topics such as working at heights, personal protective equipment, mobile equipment, mining, first aid requirement, etc.

The Government of Yukon is proposing to update the legislation to ensure that duty sections are consistent and comprehensive. Some suggested updates include:

- ensuring that the duty to comply with the *Occupational Health and Safety Act* and regulations is listed in all sections;
- ensuring the duties are consistent with the level of control and authority of the workplace party. For example, training:
 - the employer is responsible for making training available and keeping records of training;
 - the supervisor is responsible for ensuring worker is trained and the training is recorded; and
 - the worker is responsible for participating in and applying the available training.



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- confirming that a person with multiple functions must satisfy the duties of each function. For example, if a person is both the employer and the supervisor, they are required to fulfill the duties listed for both functions; and
- requiring that the director and officer of a corporation ensure the corporation complies with the legislation and regulations.

Questions for discussion:

1. What are some benefits and risks to the proposed approach?
2. Do the benefits outweigh the risks?
3. What are some other options to consider?