

Ministry of Labour, Training and Skills Development

Keeping Ontario Safe:

What you need to know about occupational health and safety & employment standards related to COVID-19

Ontario Restaurant Hotel & Motel Association

Ronald Landry, Senior Manager

June 23, 2021

Subscribe to our newsletter at Ontario.ca/labournews

Legal Disclaimer

- This presentation covers some of the minimum rights and obligations under the *Occupational Health and Safety Act (OHSA)*, *Employment Standards Act, 2000 (ESA)* and their regulations.
- **This presentation is not legal advice.** It is not intended to replace the OHSA, ESA, or their regulations and you should refer to the legislation at [Ontario.ca/laws](https://www.ontario.ca/laws).
- The legislation provides minimum standards only. Some employees may have greater rights under an employment contract, collective agreement, the common law or other legislation. Employers and employees may wish to obtain legal advice.
- **Important:** Due to orders under the *Reopening Ontario (A Flexible Response to COVID-19) Act, 2020* (previously under the *Emergency Management and Civil Protection Act*), the minimum standards under the ESA that are described may apply differently to certain employees.

Today, we'll take a look at:

1. Occupational Health and Safety Act (OHSA)

- Workers' rights and responsibilities
- Employer responsibilities
- Health and safety measures against COVID-19
- Resources
- Questions and Answers

2. Employment Standards Act (ESA)

- What the ESA is and who it applies to
- Recent changes to the ESA
- FAQs about employment standards and COVID-19
- Resources
- Questions and Answers



What is The Occupational Health and Safety Act (OHSA)?

- The OHSA came into force October 1, 1979
- The main purpose of the OHSA 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

Subscribe to our newsletter at Ontario.ca/labournews



Worker: Three Rights and Responsibilities

Rights

- ❑ **Know** about any hazards to which they may be exposed
 - Employers must provide training, instruction and supervision about health and safety hazards in the workplace.
 - Employers must ensure that workers understand the safe work procedures.
 - Workers are encouraged to ask questions about hazards at the workplace.

- ❑ **Participate** in identifying and resolving health and safety concerns

- ❑ **Refuse unsafe work** without fear of reprisals

Responsibilities

- ❑ Workers are required to work in compliance with the OHSA and its regulations.
 - This includes following safe work procedures and the requirements of the employer's health and safety policy.

- ❑ If a worker sees anything that looks unsafe, they should tell a supervisor or employer right away. The worker may also speak to a Health and Safety Representative or a member of the Joint Health and Safety Committee.

If a worker becomes ill due to COVID19 or experiences any symptoms, the worker should report it to a supervisor immediately.

Reprisals

Employers are not allowed to reprimand (punish) a worker for obeying the law or exercising their rights (OHSA, section 50)

Employers cannot:

- dismiss (or threaten to dismiss) a worker
- discipline or suspend a worker (or threaten to do so)
- impose (or threaten to impose) any penalty upon a worker
- intimidate or coerce a worker.

* If a worker feels like they may have been reprimanded against, they can call the Contact Centre at 1-877-202-0008 or email: webohs@ontario.ca

Employer responsibilities

Employers have obligations under the Occupational Health and Safety Act (OHSA) and its regulations to protect workers from hazards in the workplace, including infectious diseases.

Key Employer Duties

- Take **every reasonable precaution** in the circumstances for the protection of a worker
- Provide, maintain, and ensure proper use of equipment, materials, and protective devices**
- Ensure **required measures and procedures** are carried out
- Provide **information, instruction and supervision** to workers
- Acquaint workers and supervisors** with workplace hazards

Health and Safety Representative and Joint Health and Safety Committee (JHSC)



In workplaces where there are **between six and 19 regularly employed workers**, an employer must have workers select a **health and safety representative (HSR)**.



In workplaces with **at least 20 regularly employed workers**, an employer must set up a **joint health and safety committee (JHSC)** half of which must comprise of worker representatives, selected by workers.

Key functions & powers of JHSC and HSR under OHSA	JHSC	HSR
Inspect the workplace at least once per month	✓	✓
Identify workplace hazards and make recommendations to employer	✓	✓
Obtain information from employer regarding identification of hazards	✓	✓
Inspect workplace/investigate following critical injuries, fatalities, or work refusals	✓	✓
Opportunity to accompany MOL inspector during inspection of the workplace	✓	✓
Committee meets at least once every three months and keeps minutes	✓	×
Certified JHSC member may initiate bilateral or unilateral work stoppage, if they believe that “dangerous circumstances” exist	✓	×

Note: A period that exceeds three months is generally considered “regularly employed”.

Why might MLTSD come knocking?

Inspection

A **Proactive** call to a workplace may include:

- Initiatives/Campaigns
- Blitzes
- Known Industry Hazards

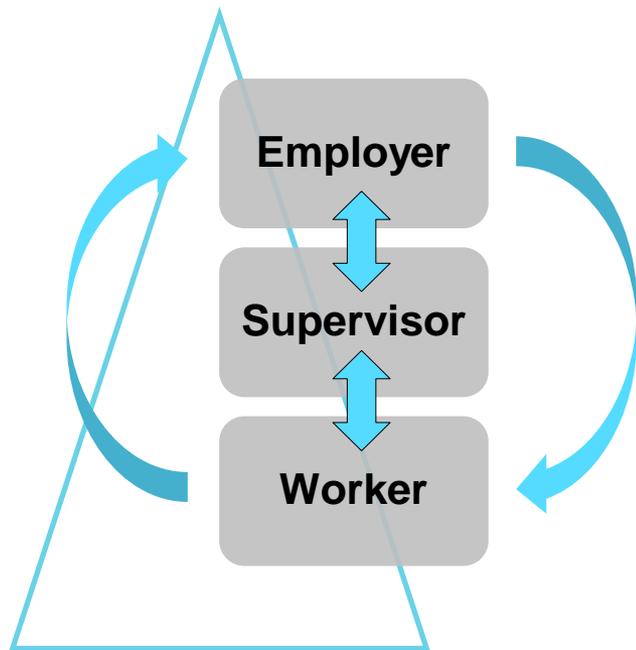
Investigation

A **Reactive** call to a workplace may include:

- Critical injury and non critical injury reports
- Complaints
- Work Refusals
- Occupational Illness
- Referral from another agency

FAQ 1: Who is responsible for protecting workers from hazards including COVID-19 in the workplace?

What does the OHSA say?



All parties have a responsibility for promoting health and safety in the workplace and to help the workplace be in compliance with the OHSA and prevent the spread of COVID19.

However, the OHSA makes it clear that employers have the greatest responsibilities with respect to health and safety in the workplace.

FAQ 2: How to be COVID-19 safe in workplace?

Develop a COVID-19 workplace safety plan

- To help businesses understand how to use health and safety guidance to develop a safety plan for their unique situation, the government has developed a [toolkit that includes a guide, template and checklist](#).
- The COVID-19 safety plan template: <https://www.ontario.ca/page/develop-your-covid-19-workplace-safety-plan>
- MLTSD has developed sector-specific [resources to prevent COVID-19 in the workplace](#).
- Free webinar and other tools: [Ontario Safe and Open - Building Your Safety Plan](#)

FAQ 3: What are Inspectors looking for related to COVID-19 in the workplace?

Things an Inspector may be looking for:

- Masking Requirements - for staff, source control and as required PPE. Eye protection also required if worker is within 2m of another person and not protected by a barrier.
 - **If there is an active outbreak - masking and eye protection at all times may be a reasonable precaution based on type or circumstances at the workplace.**
- Protection/barriers for workers in specific settings such as kitchens, reception areas, etc.
- Physical Distancing Requirements - including visual cues, location of furniture etc.
 - **Consider how physical distancing will be managed regarding staff break or lunch areas.**
- Cleaning and Disinfection including WHMIS hazards.
- Worker/Supervisor OHS Awareness and Training O. Reg. 297/13.
- Screening Requirements - active staff screening; passive screening for guests (signage, etc).
- Resources: [eye-protection-recommendation.pdf \(ihsa.ca\)](#)
<https://www.pshsa.ca/resources/ppe-in-non-healthc-workplaces-during-covid-19>

FAQ 4: What if a worker tests positive for COVID-19?

What does the OHSA say?

Under the OHSA, [52(2)], an employer is required to notify the ministry in writing within four days if a worker has an occupational illness due to an exposure at the workplace.

The written notice should include information about the business, worker, illnesses and the steps taken to prevent further illness. The notice can be emailed: MLTSDoccillness.notices@ontario.ca

- An employee who has tested positive for COVID-19 should not return to work until they are advised. The employer must inform their workers that the exposure has taken place

FAQ 5: Can a worker refuse to work if they feel unsafe due to COVID-19?

What does the OHSA say?

- If a worker has concerns about their safety, the OHSA provides a worker with the right to refuse work that the worker believes will endanger their health and safety.
- The worker must promptly report the circumstances of the work refusal to their employer or supervisor.
- When a worker refuses work, employers are required to conduct an investigation and try to resolve the issue internally. There are processes outlined in the OHSA that must be followed for work refusals (see sec. 43 and the ministry website).
- If the issue cannot be resolved by the workplace parties - employer, supervisor, worker, HSR or JHSC - then call the ministry's health and safety contact centre and ask that an inspector be sent to the workplace to investigate.

FAQ 6: Can an employer make workers wear protective equipment?

What does the OHSA say?

- Under the OHSA, Duties of workers [subsection 28 (1) (b)], a worker shall use or wear the equipment, protective devices or clothing that the worker's employer requires to be used or worn.
- The hierarchy of hazard controls range from those considered most effective at reducing the risk of exposure to the lowest or last level of control. Controls against COVID19 includes:
 - Engineering control
 - Administrative controls
 - Personal protective equipment (PPE)
- If workers are required to wear PPE, workers must be trained in its use (including proper removal and disposal), care and limitations.

Face Coverings

DO'S



DO wear a non-medical mask or face covering to protect others.



DO ensure the mask is made of at least two layers of tightly woven fabric.



DO inspect the mask for tears or holes.



DO ensure the mask or face covering is clean and dry.



DO wash your hands or use alcohol-based hand sanitizer before and after touching the mask or face covering.



DO use the ear loops or ties to put on and remove the mask.



DO ensure your nose and mouth are fully covered.



DO replace and launder your mask whenever it becomes damp or dirty.



DO wash your mask with hot, soapy water and let it dry completely before wearing it again.



DO store reusable masks in a clean paper bag until you wear it again.



DO discard masks that cannot be washed in a plastic-lined garbage bin after use.

DON'TS



DON'T reuse masks that are moist, dirty or damaged.



DON'T wear a loose mask.



DON'T touch the mask while wearing it.



DON'T remove the mask to talk to someone.



DON'T hang the mask from your neck or ears.



DON'T share your mask.



DON'T leave your used mask within the reach of others.

When used as source control, masks or face coverings protect others from the person wearing it by covering their nose and mouth so that one's own droplets don't get onto others.

FAQ 7: What are the OHS inspectors enforcing?

What does the OHSA say?

OHS inspectors have broad powers to enforce the Occupational Health & Safety Act (OHSA), including:

- to inspect any provincially regulated workplace;
- To investigate any potentially hazardous situation or work refusal, complaint, injury, illness or fatality;
- To order compliance with the OHSA and its regulations; and
- To commence a prosecution, when warranted.

OHSA: Penalties for Non-Compliance

- **Individual:** fine of up to \$100,000, up to one year imprisonment, or both
- **Corporation:** If guilty of an offence, liable for a fine of up to \$1,500,000

FAQ 8: What are the OHS inspectors enforcing during COVID19?

Other roles during COVID19?

MLTSD inspectors have also been authorized to enforce orders made under the [Emergency Management and Civil Protection Act](#) (EMCPA) or the [Reopening Ontario Act, 2020](#) (ROA).

Inspectors are conducting risk based proactive inspections to check that employers understand the risks associated with COVID-19 and are implementing measures to keep workers safe.

ROA: Penalties for Non-Compliance

- **Individual:** fine of up to \$100,000, up to one year imprisonment, or both
- **Director of a corporation:** a fine of up to \$500,000
- **Corporation:** a fine of up to \$10,000,000

FAQ 9: Who is out there visiting businesses doing enforcement during COVID19?

Enforcement Teams:

MLTSD OHS Inspectors: focusing on workplaces with reported outbreaks, manufacturing, warehousing, distribution centres, food processing and construction projects.

Compliance Assistance Team (CAT): focus is on publicly accessible workplaces deemed essential (i.e. grocery stores), retail, restaurants, construction projects, front offices of manufacturing, warehousing, food processing and distribution centres.

Multi-Ministry Team (MMT): local targeted COVID-19 safety campaigns focusing on publicly accessible workplaces deemed essential (i.e. grocery stores) and workplaces that have heightened risks as identified by public health units.

Officers may be enforcing the following legislation:

Occupational Health and Safety Act (OHSA) and associated regulations

Applicable s.22 class orders under the *Health Promotion and Protection Act (HPPA)*.

Public health requirements under the *Re-Opening Ontario Act (ROA)* and the *Emergency Management Civil Protection Act (EMCPA)*

We are here to help...

Occupational Health and Safety Contact Centre

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.

Toll-free: 1-877-202-0008

- ❑ Press 1 to report an accident or work refusal
- ❑ Press 2 to report a complaint (*including COVID19 concerns*)
- ❑ Press 3 if you have questions

Once you have reached a telephone agent, you can ask for service in other languages.

In an emergency, always call 911

General Resources

- ❑ You can also e-mail questions to webohs@ontario.ca. Responses will be made within 5 business days.
- ❑ Employers and workers can refer to the Ministry's [Guide to the Occupational Health and Safety Act](#) to understand their health and safety rights and responsibilities
- ❑ For workplaces with under 50 workers easy steps are in [Health and Safety for Small Businesses](#),
- ❑ Infection Prevention and Control at Work: Basic Awareness Training is now available at www.pshsa.ca/ipacelearning
- ❑ ThinkMentalHealth.ca to help employers prevent work-related psychological injuries

Resources Against COVID 19

- ❑ For the current state in the province: www.ontario.ca/alert and www.ontario.ca/coronavirus.
- ❑ Stop the Spread Business Information Line: 1-888-444-3659
- ❑ [Cleaning and Disinfection for Public Settings](#)
- ❑ [Guidance on meal and break periods:](#)
 - [Break poster](#)
 - [Lunch poster](#)
- ❑ [Guidance on self-isolation and return to work](#)
- ❑ Workplace screening tools:
 - [Worker screening](#)
 - [Customer screening](#)

The ministry's health and safety partners:

- ❑ Workplace Safety and Insurance Board (WSIB):
 - [Small Business Services](#)
- ❑ Workplace Safety and Prevention Services (WSPS):
 - [Small Business Centre](#)
- ❑ Public Service Health and Safety Association (PSHSA):
 - [Small Business](#)
 - <https://www.pshsa.ca/training/free-training/resilientme>
- ❑ Workplace Safety North (WSN):
 - [Health and safety resources for small business](#)
- ❑ Infrastructure Health and Safety Association (IHSA):
 - [Small Business](#)
- ❑ Occupational Health Clinic for Ontario Workers (OHCOW):
 - [Occupational Health Toolkits and Apps](#)

Questions?