

1993

CHAPTER O-1.1

An Act respecting Occupational Health and Safety

(Assented to June 22, 1993)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows:

PART I Preliminary Matters

Short title

1 This Act may be cited as *The Occupational Health and Safety Act, 1993*.

Interpretation

2(1) In this Act:

- (a) **“biological substance”** means a substance containing living organisms or parts of organisms or products of organisms in their natural or modified forms;
- (b) **“chemical substance”** means any natural or artificial substance, whether in the form of a solid, liquid, gas or vapour, other than a biological substance;
- (c) **“chief occupational medical officer”** means the person appointed as the chief occupational medical officer pursuant to section 79;
- (d) **“contractor”** means a person who, or a partnership or group of persons that, pursuant to one or more contracts, directs the activities of one or more employers or self-employed persons involved in work at a place of employment;
- (e) **“department”** means the department over which the minister presides;
- (f) **“director”** means the director of the division;
- (g) **“discriminatory action”** means any action or threat of action by an employer that does or would adversely affect a worker with respect to any terms or conditions of employment or opportunity for promotion, and includes dismissal, layoff, suspension, demotion or transfer of a worker, discontinuation or elimination of a job, change of a job location, reduction in wages, change in hours of work, reprimand, coercion, intimidation or the imposition of any discipline or other penalty, but does not include:
 - (i) the temporary assignment of a worker to alternate work, pursuant to section 36, without loss of pay to the worker; or
 - (ii) the temporary assignment of a worker to alternate work, without loss of pay to the worker, while:

- (A) steps are being taken for the purposes of clause 23(a) to satisfy the worker that any particular act or series of acts that the worker refused to perform pursuant to that subsection are not unusually dangerous to the health or safety of the worker or any other person at the place of employment;
- (B) the occupational health committee is conducting an investigation pursuant to clause 23(b) in relation to the worker's refusal to perform any particular act or series of acts; or
- (C) an occupational health officer is conducting an investigation requested by a worker or an employer pursuant to clause 24(a);
- (h) **"division"** means the Occupational Health and Safety Division mentioned in section 68;
- (i) **"employer"** means a person, firm, association or body that has, in connection with the operation of a place of employment, one or more workers in the service of the person, firm, association or body;
- (j) **"employer association"** means an organization of employers who retain their autonomy but co-operate to address common employer problems and achieve common goals of employers;
- (k) **"equipment"** means any mechanical or non-mechanical article or device, and includes any machine, tool, appliance, apparatus, implement, service or utility, but does not include the personal property owned by an individual unless that property is used in the carrying on of an occupation;
- (l) **"harassment"** means any objectionable conduct, comment or display by a person that:
- (i) is directed at a worker;
 - (ii) is made on the basis of race, creed, religion, colour, sex, sexual orientation, marital status, family status, disability, physical size or weight, age, nationality, ancestry or place of origin; and
 - (iii) constitutes a threat to the health or safety of the worker;
- (m) **"labour organization"** means a labour organization as defined in *The Trade Union Act*;
- (n) **"minister"** means the member of the Executive Council to whom for the time being the administration of this Act is assigned;
- (o) **"occupation"** means employment, business, calling or pursuit;
- (p) **"occupational health and safety"** means:
- (i) the promotion and maintenance of the highest degree of physical, mental and social well-being of workers;
 - (ii) the prevention among workers of ill health caused by their working conditions;
 - (iii) the protection of workers in their employment from factors adverse to their health;
 - (iv) the placing and maintenance of workers in working environments that are adapted to their individual physiological and psychological conditions; and
 - (v) the promotion and maintenance of a working environment that is free of harassment;
- (q) **"occupational health and safety representative"** means an occupational health and safety representative designated pursuant to section 16;
- (r) **"occupational health and safety service"** means a service organized in or near a place of employment for the purposes of:
- (i) protecting workers against any health or safety hazard that may arise out of their work or the conditions under which it is carried on;
 - (ii) contributing to the workers' physical and mental adjustment in their employment and their assignment to jobs for which they are suited; and
 - (iii) contributing to the establishment and maintenance of a high degree of physical and mental well-being in the workers;
- (s) **"occupational health committee"** means an occupational health committee established pursuant to section 15 or the regulations;
- (t) **"occupational health officer"** means a person appointed as an occupational health officer pursuant to section 71;
- (u) **"owner"** includes:
- (i) a trustee, receiver, mortgagee in possession, tenant, lessee or occupier of any lands or premises used or to be used as a place of employment; and
 - (ii) any person who acts for or on behalf of a person mentioned in subclause (i) as that person's agent or delegate;
- (v) **"physician"** means a physician registered pursuant to *The Medical Profession Act, 1981*;
- (w) **"place of employment"** means any plant in or on which one or more workers or self-employed persons

work, usually work or have worked;

(x) **"plant"** includes any premises, site, land, mine, water, structure, fixture or equipment employed or used in the carrying on of an occupation;

(y) **"practicable"** means possible given current knowledge, technology and invention;

(z) **"prescribed"** means prescribed in the regulations;

(aa) **"reasonably practicable"** means practicable unless the person on whom a duty is placed can show that there is a gross disproportion between the benefit of the duty and the cost, in time, trouble and money, of the measures to secure the duty;

(bb) **"registered nurse"** means a nurse registered pursuant to *The Registered Nurses Act, 1988*;

(cc) **"self-employed person"** means a person who is engaged in an occupation but is not in the service of an employer;

(dd) **"structure"** includes any building, support for equipment, factory, road, dam, bridge, waterway, dock, railway or excavation;

(ee) **"supplier"** means, unless otherwise stated, a person who supplies, sells, offers or exposes for sale, leases, distributes or installs any biological substance or chemical substance or any plant to be used at a place of employment;

(ff) **"worker"** means a person who is engaged in an occupation in the service of an employer;

(gg) **"worksite"** means an area at a place of employment where a worker works or is required or permitted to be present.

(2) In this Act:

(a) where a provision refers to any matter or thing that an employer is required to do in relation to workers, the provision applies to workers who are in the service of that employer, unless the context requires otherwise;

(b) where a provision refers to any matter or thing that an employer is required to do in relation to a place of employment, the provision applies to every place of employment of that employer, unless the context requires otherwise.

PART II

Duties

General duties of employers

3 Every employer shall:

(a) ensure, insofar as is reasonably practicable, the health, safety and welfare at work of all of the employer's workers;

(b) consult and co-operate with any occupational health committee or the occupational health and safety representative at the place of employment for the purpose of resolving concerns on matters of health, safety and welfare at work;

(c) ensure, insofar as is reasonably practicable, that the employer's workers are not exposed to harassment at the place of employment;

(d) co-operate with any other person exercising a duty imposed by this Act or the regulations; and

(e) comply with this Act and the regulations.

General duties of workers

4 Every worker while at work shall:

(a) take reasonable care to protect his or her health and safety and the health and safety of other workers who may be affected by his or her acts or omissions;

(b) refrain from causing or participating in the harassment of another worker;

(c) co-operate with any other person exercising a duty imposed by this Act or the regulations; and

(d) comply with this Act and the regulations.

General duties of self-employed persons

5 Every self-employed person shall:

(a) conduct his or her undertaking in such a way as to ensure, insofar as is reasonably practicable, that the self-employed person and workers employed on or about the same place of employment who may be affected by the undertaking are not thereby exposed to risks to their health and safety;

(b) co-operate with any other person exercising a duty imposed by this Act or the regulations; and

- (c) comply with this Act and the regulations.

General duties of contractors

6 Every contractor shall:

- (a) ensure, insofar as is reasonably practicable, that every:
- (i) place of employment or worksite where an employer, employer's worker or self-employed person works pursuant to a contract between the contractor and the employer or self-employed person; or
 - (ii) work process or procedure carried on at every place of employment where an employer, employer's worker or self-employed person works pursuant to a contract between the contractor and the employer or self-employed person;
- that is not in the direct and complete control of an employer or self-employed person under contract with the contractor is safe for, without risk to the health of, and adequate with regard to facilities for the welfare of, all employers, workers or self-employed persons at the place of employment;
- (b) post any prescribed notice in a conspicuous location at every place of employment where an employer, employer's worker or self-employed person works pursuant to a contract between the contractor and the employer or self-employed person; and
- (c) comply with this Act and the regulations.

General duties of owners

7 Every owner of any plant used as a place of employment shall:

- (a) ensure, insofar as is reasonably practicable, that any:
- (i) area of the plant; or
 - (ii) activity occurring in or on an area of the plant;
- that is not in the direct and complete control of any contractor, employer or self-employed person who works or employs one or more workers who work in or on the plant, is maintained or is carried on in compliance with this Act and the regulations and does not endanger the health or safety of any contractor, employer, worker or self-employed person who works in or on the plant; and
- (b) comply with this Act and the regulations.

General duties of suppliers

8 Every supplier shall:

- (a) ensure, insofar as is reasonably practicable, that any biological or chemical substance or any plant supplied by the supplier to any owner, contractor, employer, worker or self-employed person for use in or at a place of employment:
- (i) is safe when used in accordance with the instructions provided by the supplier; and
 - (ii) complies with the requirements of this Act and the regulations; and
- (b) comply with this Act and the regulations.

Duty to provide information

9(1) In this section, "**required information**":

- (a) means any information that an employer, contractor, owner or supplier knows or may reasonably be expected to know, and that:
- (i) may affect the health or safety of any person who works at a place of employment; or
 - (ii) is necessary to identify and control any existing or potential hazards with respect to any plant or any process, procedure, biological substance or chemical substance used at a place of employment; and
- (b) includes any prescribed information.
- (2) Subject to section 10 and Part VI, an employer shall provide all required information to the following at a place of employment:
- (a) the occupational health committee;
 - (b) the occupational health and safety representative; or
 - (c) the workers, where there is no occupational health committee and no occupational health and safety representative.
- (3) Subject to Part VI, a contractor shall provide all required information to:
- (a) every employer and self-employed person with whom the contractor has a contract; and

- (b) any occupational health committee established by the contractor.
- (4) Subject to Part VI, an owner of a plant used as a place of employment shall provide all required information to every contractor, every employer who employs workers who work in or on the plant and every self-employed person who works in or on the plant.
- (5) Subject to Part VI, every supplier shall provide prescribed written instructions and any other prescribed information to every employer to whom the supplier supplies any prescribed biological substance, chemical substance or plant.

Exemption

- 10(1) Subject to Part VI, an employer, owner, contractor or supplier may apply for an exemption from the requirements of subsection 9(2), (3), (4) or (5), as the case may be, with respect to information that contains trade secrets of the applicant by submitting a written request to the director.
- (2) After consultation with any interested persons that the director considers appropriate, the director may exempt an applicant pursuant to subsection (1) from the requirements of subsection 9(2), (3), (4) or (5) with respect to information that contains trade secrets of the applicant.
- (3) An exemption pursuant to subsection (2):
 - (a) must be in writing; and
 - (b) may be made subject to any terms and conditions that, in the opinion of the director, are necessary to secure the health or safety of the workers.

Provision of information to medical personnel

- 11(1) An employer shall, as soon as is practicable in the circumstances, provide any information exempted pursuant to subsection 10(2) that is in the possession of the employer to any physician or registered nurse who requests the information for the purpose of making a medical diagnosis of, or rendering treatment to, a worker in an emergency.
- (2) A physician or registered nurse to whom information is provided pursuant to subsection (1) shall:
 - (a) use the information only for the purpose for which it is provided; and
 - (b) keep confidential any information specified by the employer as confidential information.

Duty to provide occupational health and safety service

- 12(1) The minister may designate a place of employment or a class of places of employment as requiring an occupational health and safety service, having regard to the type of work being carried on, the number of workers employed and the degree of hazard at the place or places of employment.
- (2) An employer shall establish and maintain an occupational health and safety service for a place of employment that is designated pursuant to subsection (1).
- (3) The minister may specify the services that are to be provided by the occupational health and safety service for a designated place of employment.
- (4) The establishment and continued operation of an occupational health and safety service is subject to the direction of the minister.

Duty to provide occupational health and safety programs

- 13(1) An employer at a prescribed place of employment shall establish and maintain an occupational health and safety program or a prescribed part of an occupational health and safety program in accordance with the regulations.
- (2) An occupational health and safety program must be established and designed in consultation with:
 - (a) the occupational health committee;
 - (b) the occupational health and safety representative; or
 - (c) the workers, where there is no occupational health committee and no occupational health and safety representative.
- (3) An occupational health and safety program must include all documents, information and matters that are prescribed in the regulations.
- (4) An occupational health and safety program must be in writing and must be made available to the occupational health committee, the occupational health and safety representative, the workers or an occupational health officer on request.
- (5) Where the work at a place of employment is carried on pursuant to contracts between a contractor and two or more employers, the contractor shall co-ordinate the occupational health and safety programs of all employers at the place of employment.

Duty re policy statement on violence

14(1) An employer at a prescribed place of employment where violent situations have occurred or may reasonably be expected to occur shall develop and implement a policy statement to deal with potentially violent situations after consultation with:

- (a) the occupational health committee;
- (b) the occupational health and safety representative; or
- (c) the workers, where there is no occupational health committee and no occupational health and safety representative.

(2) A policy statement required by subsection (1) shall include any provisions prescribed in the regulations.

PART III**Occupational Health Committees and Occupational Health and Safety Representatives****Establishment of committees**

15(1) Subject to the regulations, at every place of employment where 10 or more workers of one employer work, the employer shall:

- (a) establish an occupational health committee at the place of employment; and
- (b) designate persons as members of the occupational health committee in accordance with this section.

(2) An occupational health committee must consist of at least two and no more than 12 persons.

(3) At least half of the members of an occupational health committee must represent workers other than workers connected with the management of the place of employment.

(4) No person may be designated as a member of an occupational health committee who represents workers unless the person:

- (a) has been elected from the place of employment for that purpose by the workers whom the person would represent;
- (b) has been appointed from the place of employment in accordance with the constitution of the trade union of which the workers are members; or
- (c) where more than one trade union represents the workers that the person would represent on the committee, has been appointed for that purpose from the place of employment pursuant to an agreement among all of those trade unions.

Designation of representatives

16(1) Subject to the regulations, at each prescribed place of employment where less than 10 workers of one employer work, the employer shall designate a person as the occupational health and safety representative for those workers.

(2) No person may be designated as an occupational health and safety representative unless the person:

- (a) has been elected from the place of employment for that purpose by the workers whom the person would represent;
- (b) has been appointed from the place of employment in accordance with the constitution of the trade union of which the workers are members; or
- (c) where more than one trade union represents the workers that the person would represent as an occupational health and safety representative, has been appointed for that purpose from the place of employment pursuant to an agreement among all of those trade unions.

Duty to post names

17(1) A person who is required to establish an occupational health committee pursuant to section 15 or the regulations shall post the names of the members of the committee in a conspicuous location at every place of employment of workers represented by the committee.

(2) An employer who is required to designate an occupational health and safety representative pursuant to section 16 shall post the name of the representative in a conspicuous location at every place of employment of workers represented by the representative.

General concern of committees and representatives

18 An occupational health committee and an occupational health and safety representative shall have a continuing concern with respect to the health, safety and welfare at a place of employment of workers represented by the

committee or the representative.

Duties of committees

19 The duties of an occupational health committee are:

- (a) to participate in the identification and control of health and safety hazards in or at the place of employment;
- (b) to co-operate with the occupational health and safety service, if any, established for the place of employment;
- (c) to establish, promote and recommend the means of delivery of health and safety programs for the education and information of workers;
- (d) to maintain records with respect to the duties of the committee pursuant to this section;
- (e) to investigate any matter mentioned in section 23;
- (f) to receive, consider and resolve matters respecting the health and safety of workers;
- (g) to carry out any other duties that are specified in this Act or prescribed in the regulations.

Duties of representatives

20 The duties of an occupational health and safety representative are the following, to be done in consultation with the employer:

- (a) to participate in the identification and control of health and safety hazards in or at the place of employment;
- (b) to co-operate with the occupational health and safety service, if any, established for the place of employment;
- (c) to receive and distribute to workers information regarding health and safety;
- (d) to receive, consider and resolve matters respecting the health and safety of workers;
- (e) to carry out any other duties that are specified in this Act or prescribed in the regulations.

Reference to officer

21(1) In this section, “**employer**” means any person who is required to establish an occupational health committee pursuant to section 15 or the regulations or to designate an occupational health and safety representative pursuant to section 16.

(2) Where an employer does not resolve a problem or address a concern raised by an occupational health committee or an occupational health and safety representative with respect to the health, safety and welfare of the workers at a place of employment, the employer shall provide written reasons for not resolving the problem or addressing the concern to the committee or to the representative.

(3) Where the parties cannot resolve a problem or address a concern after the provision of written reasons by the employer pursuant to subsection (2), any of the following may refer the matter to an occupational health officer:

- (a) the employer;
- (b) the occupational health committee;
- (c) a member of the occupational health committee;
- (d) the occupational health and safety representative.

(4) Where a matter is referred to an occupational health officer pursuant to subsection (3):

- (a) the officer may determine that there is no problem or concern and inform the person who referred the matter of the determination;
- (b) the officer may endeavour to mediate an acceptable resolution of the matter and, if the matter cannot be resolved, give written reasons to the employer and to the occupational health committee or the occupational health and safety representative, as the case may be, why the matter cannot be resolved; or
- (c) if the circumstances warrant it, the officer may issue a notice of contravention in accordance with this Act.

(5) Nothing in this section limits the right of a worker to refer any matter respecting occupational health and safety directly to an occupational health officer.

Provision of reports by officer

22 If an occupational health officer provides an employer with a report or other communication related to the health and safety of workers, the occupational health officer shall, at the same time, provide a copy of the report or communication to:

- (a) the occupational health committee;
- (b) the occupational health and safety representative; or
- (c) the employer's workers, where there is no occupational health committee and no occupational health and safety representative.

PART IV

Right to Refuse Dangerous Work; Discriminatory Action

Right to refuse

23 A worker may refuse to perform any particular act or series of acts at a place of employment where the worker has reasonable grounds to believe that the act or series of acts is unusually dangerous to the worker's health or safety or the health or safety of any other person at the place of employment until:

- (a) sufficient steps have been taken to satisfy the worker otherwise; or
- (b) the occupational health committee has investigated the matter and advised the worker otherwise.

Investigation by officer

24 Where there is no occupational health committee at a place of employment or where the worker or the employer is not satisfied with the decision of the occupational health committee pursuant to clause 23(b):

- (a) the worker or the employer may request an occupational health officer to investigate the matter; and
- (b) the worker is entitled to refuse to perform the act or series of acts pursuant to section 23 until the occupational health officer has investigated the matter and advised the worker otherwise pursuant to subsection 25(2).

Decision of officer

25(1) Where an occupational health officer decides that the act or series of acts that a worker has refused to perform pursuant to section 23 is unusually dangerous to the health or safety of the worker or any other person at the place of employment, the occupational health officer may issue a notice of contravention in writing to the employer requiring the appropriate remedial action.

(2) Where an occupational health officer decides that the act or series of acts that a worker has refused to perform pursuant to section 23 is not unusually dangerous to the health or safety of the worker or any other person at the place of employment, the occupational health officer shall, in writing:

- (a) advise the employer and the worker of that decision; and
- (b) advise the worker that he or she is no longer entitled to refuse to perform the act or series of acts pursuant to section 23.

Other workers not to be assigned

26 Where a worker has refused to perform an act or series of acts pursuant to section 23, the employer shall not request or assign another worker to perform that act or series of acts unless that other worker has been advised by the employer, in writing, of:

- (a) the refusal and the reasons for the refusal;
- (b) the reason or reasons the worker being assigned or requested to do the act or series of acts can, in the employer's opinion, carry out the act or series of acts in a healthy and safe manner; and
- (c) the right of the worker to refuse to do the act or series of acts pursuant to section 23.

Discriminatory action prohibited in certain circumstances

27 No employer shall take discriminatory action against a worker because the worker:

- (a) acts or has acted in compliance with:
 - (i) this Act or the regulations;
 - (ii) a code of practice; or
 - (iii) a notice of contravention or a requirement or prohibition contained in a notice of contravention;
- (b) seeks or has sought the enforcement of this Act or the regulations;
- (c) assists or has assisted with the activities of an occupational health committee or occupational health and safety representative;
- (d) seeks or has sought the establishment of an occupational health committee or the designation of an occupational health and safety representative;
- (e) performs or has performed the function of an occupational health committee member or occupational health and safety representative;
- (f) refuses or has refused to work pursuant to section 23;
- (g) is about to testify or has testified in any proceeding or inquiry pursuant to this Act or the regulations;
- (h) gives or has given information to an occupational health committee, an occupational health and safety representative, an occupational health officer or other person responsible for the administration of this Act or the regulations with respect to the health and safety of workers at a place of employment;
- (i) is or has been prevented from working because a notice of contravention issued pursuant to section 33 with respect to the worker's work has been served on the employer.

Referral to officer

28(1) A worker who, on reasonable grounds, believes that the employer has taken discriminatory action against him or her for a reason mentioned in section 27 may refer the matter to an occupational health officer.

(2) Where an occupational health officer decides that an employer has taken discriminatory action against a worker for a reason mentioned in section 27, the occupational health officer shall issue a notice of contravention requiring the employer to:

- (a) cease the discriminatory action;
- (b) reinstate the worker to his or her former employment on the same terms and conditions under which the worker was formerly employed;
- (c) pay to the worker any wages that the worker would have earned if the worker had not been wrongfully discriminated against; and
- (d) remove any reprimand or other reference to the matter from any employment records maintained by the employer with respect to that worker.

(3) Where an occupational health officer decides that no discriminatory action has been taken against a worker for any of the reasons set out in section 27, the occupational health officer shall advise the worker of the reasons for that decision in writing.

(4) Where discriminatory action has been taken against a worker who has acted or participated in an activity described in section 27, there is, in any prosecution or other proceeding taken pursuant to this Act, a presumption in

favour of the worker that the discriminatory action was taken against the worker because the worker acted or participated in an activity described in section 27, and the onus is on the employer to establish that the discriminatory action was taken against the worker for good and sufficient other reason.

Order to reinstate worker wrongfully discriminated against

29 Where an employer is convicted of taking discriminatory action against a worker contrary to any provision of this Act, the convicting judge or justice shall order:

- (a) the employer to cease the discriminatory action and to reinstate the worker to his or her former employment under the same terms and conditions under which the worker was formerly employed;
- (b) the employer to pay to the worker any wages the worker would have earned if the worker had not been wrongfully discriminated against; and
- (c) any reprimand or other reference to the matter in the employer's records on the worker to be removed.

PART V

Notices of Contravention

Notice of contravention

30(1) An occupational health officer may serve a notice of contravention in writing on a person if the occupational health officer is of the opinion that the person:

- (a) is contravening any provision of this Act or the regulations; or
- (b) has contravened any provision of this Act or the regulations in circumstances that make it likely that the contravention will continue or will be repeated.

(2) A notice of contravention shall cite the contravened provision of this Act or the regulations, state the reasons for the officer's opinion and require the person to remedy the contravention within a specified period.

Directions to remedy contravention

31 A notice of contravention may include directions as to the measures to be taken to remedy the contravention to which the notice relates, and the directions shall, where practicable, give the person on whom the notice is served a choice of different ways of remedying the contravention.

Contravention involving risk to health or safety

32 Where an occupational health officer is of the opinion that a contravention of this Act or the regulations involves or may involve a risk to the health or safety of a worker, the occupational health officer may direct in the notice of contravention that any activity to which the notice of contravention relates shall not be carried on after the period specified in the notice or until the contravention specified in the notice has been remedied, whichever occurs first.

Contravention involving serious risk to health or safety

33(1) Where an occupational health officer is of the opinion that a contravention of this Act or the regulations involves or may involve a serious risk to the health or safety of a worker, the occupational health officer shall, in the notice of contravention, require the cessation of work that involves a serious risk to workers arising from that contravention until the requirement to cease work has been withdrawn by an occupational health officer.

(2) Notwithstanding subsection (1), where an occupational health officer requires the immediate cessation of any work at or the evacuation of workers from a place of employment or a worksite pursuant to subsection (1), the person on whom the notice of contravention is served may, subject to any direction given by the occupational health officer, carry out or cause workers to carry out the activities or measures necessary to remedy the contravention.

Copy of notice of contravention

34 Where an occupational health officer serves a notice of contravention on any person, the occupational health officer shall:

- (a) where there is an occupational health committee or an occupational health and safety representative at the place of employment with respect to which the notice of contravention applies, provide the occupational health committee or the occupational health and safety representative with a copy of the notice of contravention; or
- (b) where there is no occupational health committee or occupational health and safety representative at the place of employment with respect to which the notice of contravention applies, post a copy of the notice of contravention in a conspicuous location at that place of employment.

Progress report

35 Within seven days after the end of the period specified in a notice of contravention within which a contravention is to be remedied, the person on whom the notice of contravention is served:

- (a) shall:
 - (i) provide the occupational health committee or occupational health and safety representative at the place of employment with respect to which the notice of contravention applies with a written report of the progress that has been made towards remedying each contravention of the Act or regulations that is stated in the notice of contravention; or
 - (ii) where no occupational health committee or occupational health and safety representative exists at the place of employment with respect to which the notice of contravention applies, post in a conspicuous location at the place of employment a written report of the progress that has been made towards remedying each contravention of the Act or regulations that is stated in the notice of contravention; and
- (b) shall provide the occupational health officer who issued the notice of contravention with a written report of the progress that has been made towards remedying each contravention of the Act or regulations that is stated in the notice of contravention.

Reassignment to alternate work

36 Where an occupational health officer has served on an employer a notice of contravention that includes a requirement mentioned in section 33, the employer shall assign his or her workers, who are no longer able to work at a worksite with respect to which the notice of contravention applies, to alternate work, without loss of pay, until the workers are permitted by an occupational health officer to resume their work at the worksite.

Withdrawal of certain requirements

37 An occupational health officer may withdraw any requirement for the cessation of work mentioned in section 33 that is included in a notice of contravention where the occupational health officer is satisfied that the contravention with respect to which the cessation of work was required has been remedied.

Notices of contravention that do not take immediate effect

38 Where a notice of contravention that is not to take immediate effect has been served:

- (a) the notice may be withdrawn by an occupational health officer at any time before the end of the period specified in the notice; or
- (b) the period so specified may be extended or further extended by an occupational health officer at any time except when an appeal against the notice is pending.

PART VI

Workplace Hazardous Materials Information System

Interpretation of Part

39 In this Part:

- (a) **"appeal board"** means an appeal board appointed pursuant to subsection 43(1) of the *Hazardous Materials Information Review Act* (Canada) in relation to appeals relating to the provisions of the *Hazardous Products Act* (Canada);
- (b) **"commission"** means the Hazardous Materials Information Review Commission established pursuant to subsection 28(1) of the *Hazardous Materials Information Review Act* (Canada);
- (c) **"concentration"** means concentration as expressed in the prescribed manner;
- (d) **"controlled product"** means a controlled product within the meaning of the *Hazardous Products Act* (Canada);
- (e) **"hazard symbol"** includes any design, mark, pictogram, sign, letter, word, number, abbreviation or any combination of them that is to be displayed on a controlled product or container in which a controlled product is packaged in order to show the nature of the hazard of the controlled product;

- (f) **"Ingredient Disclosure List"** means the Ingredient Disclosure List established pursuant to subsection 17(1) of the *Hazardous Products Act* (Canada);
- (g) **"label"** includes any mark, sign, device, stamp, seal, sticker, ticket, tag or wrapper;
- (h) **"material safety data sheet"** means a document on which words, figures or symbols disclosing the information mentioned in subclauses 40(e)(i) to (v) may be written, printed or otherwise expressed;
- (i) **"pure substance"** means a substance that:
 - (i) is composed mainly of a single chemical or biological ingredient; and
 - (ii) does not contain any other ingredient that is included in the Ingredient Disclosure List in a concentration equal to or greater than the concentration specified in the Ingredient Disclosure List for that ingredient.

Employer's duties re substances and controlled products

40 Without restricting the generality of section 3 or limiting the duties of an employer pursuant to the regulations, but subject to any prescribed exceptions, every employer shall, with respect to every place of employment controlled by that employer:

- (a) ensure that concentrations of chemical substances and biological substances in the place of employment are controlled in accordance with prescribed standards;
- (b) ensure that all chemical substances and biological substances in the place of employment are stored, handled and disposed of in the prescribed manner;
- (c) ensure that all chemical substances and biological substances in the place of employment, other than controlled products, are identified in the prescribed manner;
- (d) subject to section 42, ensure that each controlled product in the place of employment or each container in the place of employment in which a controlled product is contained:
 - (i) has a label that discloses all applicable prescribed information applied to it; and
 - (ii) has all applicable prescribed hazard symbols displayed on it in the prescribed manner; and
- (e) subject to section 42, make available to the employer's workers, to the extent and in the prescribed manner, a material safety data sheet with respect to each controlled product in the place of employment that discloses:
 - (i) where the controlled product is a pure substance, the chemical or biological identity of the controlled product and, where the controlled product is not a pure substance, the chemical or biological identity of any ingredient of it that is a controlled product and the concentration of that ingredient;

- (ii) where the controlled product contains an ingredient that is included in the Ingredient Disclosure List and the ingredient is in a concentration that is equal to or greater than the concentration specified in the Ingredient Disclosure List for that ingredient, the chemical or biological identity and concentration of that ingredient;
- (iii) the chemical or biological identity of any ingredient of the controlled product that the employer has reasonable grounds to believe may be harmful to a worker and the concentration of that ingredient;
- (iv) the chemical or biological identity of any ingredient of the controlled product of which the toxicological properties are not known to the employer and the concentration of that ingredient; and
- (v) any prescribed information with respect to the controlled product.

Information re controlled product

41(1) An employer shall, with respect to any controlled product in a place of employment controlled by the employer, provide, as soon as is practicable in the circumstances, any information mentioned in clause 40(e) that is in the possession of the employer to any physician or registered nurse who requests that information for the purpose of making a medical diagnosis of, or rendering medical treatment to, a worker in an emergency.

(2) Any physician or registered nurse to whom information is provided pursuant to subsection (1) shall keep confidential any information that the employer specifies as confidential except for the purpose for which it is provided.

Exemption from disclosure

42(1) Subject to section 41, an employer who is required, either directly or indirectly, pursuant to section 40 to disclose:

- (a) the chemical or biological identity or concentration of any ingredient of a controlled product;
- (b) the name of any toxicological study that identifies any ingredient of a controlled product;
- (c) the chemical name, common name, generic name, trade name or brand name of a controlled product; or
- (d) information that could be used to identify a supplier, as defined in the *Hazardous Products Act* (Canada);

may, if the employer considers that information to be confidential business information, claim an exemption from the requirement to disclose that information in the same manner and subject to the same terms and conditions as if the employer were an employer to whom the *Canada Labour Code* applies.

- (2) A claim for an exemption pursuant to subsection (1) may, in the discretion of the commission, be heard and determined by an officer or employee of the commission in the same manner and subject to the same terms and conditions as if the employer were an employer to whom the *Canada Labour Code* applies.
- (3) An appeal by a claimant or any affected party from a decision pursuant to subsection (2) may, in the discretion of the commission, be heard and determined by an appeal board in the same manner and subject to the same terms and conditions as if the employer were an employer to whom the *Canada Labour Code* applies.
- (4) The director may publish in *The Saskatchewan Gazette* any notice respecting a claim for exemption or an appeal that would be required pursuant to the *Hazardous Materials Information Review Act* (Canada) to be published in the *Canada Gazette* if the employer were an employer to whom the *Canada Labour Code* applies.

Information confidential

43(1) Subject to subsections (2) and (3), no employee of the department and no other person who assists in the administration of this Act shall, during his or her employment or after the termination of his or her appointment or services, reveal any manufacturing or trade secrets that may come to the knowledge of the employee or other person in the course of his or her duties, except for the purposes of this Act and the regulations or as required by law.

(2) For the purposes of subsection (3), "**confidential information**" means:

(a) information that, prior to the determination of a claim pursuant to section 16 of the *Hazardous Materials Information Review Act* (Canada), is claimed to be confidential business information:

(i) pursuant to section 43 of this Act, by an employer manufacturing or using a controlled product;

or

(ii) pursuant to the *Hazardous Materials Information Review Act* (Canada), by a supplier as defined in the *Hazardous Products Act* (Canada); or

(b) information with respect to which, pursuant to section 16 of the *Hazardous Materials Information Review Act* (Canada):

(i) a claim or portion of a claim for exemption pursuant to section 11 of the *Hazardous Materials Information Review Act* (Canada) has been determined valid; and

(ii) compliance with the provisions of the *Hazardous Products Act* (Canada) or the *Canada Labour Code* has not been ordered.

(3) Confidential information is privileged and, notwithstanding any other Act or law, shall not be disclosed to any other person unless the specific disclosure has been expressly authorized in writing by the commission or the appeal board, if:

(a) for the purposes of the administration or enforcement of this Act, the information:

(i) is communicated to the Government of Saskatchewan or any agent or employee of the Government of Saskatchewan by the commission or an agent or employee of the commission; or

(ii) is obtained by the Government of Saskatchewan or an agent or employee of the Government of Saskatchewan from the commission or the appeal board through the inspection of or access to any book, record, writing or other document, of the commission or appeal board; or

(b) the information is obtained by any person for the purposes of or through the administration or enforcement of this Act, the *Hazardous Products Act* (Canada) or the *Hazardous Materials Information Review Act* (Canada).

PART VII

Regulations and Codes of Practice

Regulations

44(1) The Lieutenant Governor in Council may make regulations:

(a) defining, enlarging or restricting the meaning of any word or expression used in this Act but not defined in this Act;

(b) prescribing the standards to be established and maintained by specified persons for the protection of the health and safety of workers and self-employed persons at any place of employment;

(c) prescribing the contents of occupational health and safety programs;

(d) regulating or prohibiting the manufacture, supply, storage, keeping or use of any biological or chemical substance or any plant and the carrying on of any process, procedure or undertaking;

(e) where necessary to ensure the health and safety of workers and self-employed persons, imposing requirements with respect to the design, construction, guarding, siting, installation, commissioning, examination, repair, maintenance, alteration, adjustment, dismantling, demolition, testing, inspection or use

- of any plant;
- (f) imposing requirements with respect to the marking of any plant or any articles or equipment used or made at any plant and regulating or restricting the use of specified markings;
 - (g) imposing requirements with respect to the testing or examination of any substance produced, used, stored or otherwise found at a place of employment;
 - (h) imposing requirements with respect to the labelling of, and disclosure of information respecting, any substance produced, used, stored or otherwise found at a place of employment;
 - (i) where necessary to ensure the health and safety of workers, regulating the employment of or requiring the provision of alternate work for:
 - (i) any worker sensitized to any biological or chemical substance in the place of employment;
 - (ii) any pregnant worker; or
 - (iii) any other person;
 - (j) where necessary to ensure the health and safety of workers and self-employed persons, restricting the performance of specified functions to persons possessing specified qualifications or experience;
 - (k) requiring the making of arrangements to promote the health of workers, including arrangements for medical examinations and health surveys;
 - (l) requiring the registration of workers exposed to contaminants at a place of employment;
 - (m) requiring the making of arrangements to:
 - (i) monitor the atmospheric or other conditions in which persons work;
 - (ii) determine and record the exposure of workers to chemical or biological substances, processes or physical agents at the place of employment; or
 - (iii) provide for the registration of workers exposed to any chemical or biological substance, process or physical agent at a place of employment;
 - (n) respecting and governing any matter affecting the conditions in which persons work, including the structural condition and stability of places of employment, the means of access to and exit from places of employment, and the cleanliness, temperature, lighting, ventilation, adequacy of work space, noise levels and vibrations, and the existence of dust and fumes at places of employment;
 - (o) respecting the provision of vaccinations against diseases associated with any occupation or category of occupations to any worker or worker in a category of workers who chooses to receive the vaccination;
 - (p) providing for minimum standards of certain welfare facilities for workers, including an adequate water supply, sanitary and washing facilities, transportation and first-aid arrangements for sick or injured workers, cloakroom accommodation, sitting facilities and lunchroom facilities;
 - (q) imposing requirements with respect to the provision and use in specified circumstances of protective clothing or equipment, including clothing affording protection against the hazards of work and against unusual exposure to the weather;
 - (r) imposing requirements with respect to the instruction, training and supervision of workers;
 - (s) respecting smoking or the prohibition of smoking in any place of employment including the designation of the areas in which smoking will be permitted at a place of employment;
 - (t) requiring reports to be made to the division;
 - (u) prescribing the contents of any report to be made to the division;
 - (v) prescribing forms for the purposes of this Act;
 - (w) requiring the posting, provision, availability or distribution of specified information, instructions, notices, documents, signs or posters;
 - (x) prescribing any information, instructions, notices, documents, signs or posters that are to be posted, provided, made available or distributed pursuant to any provision of this Act;
 - (y) imposing requirements with respect to the keeping, preservation and submission of records and other documents necessary for the administration of this Act, including:
 - (i) the specifications, plans and maps of any plant, process or procedure;
 - (ii) any document containing a description of the composition of any substance;
 - (iii) records of any atmospheric condition in a plant;
 - (iv) records of worker exposure to a chemical or biological substance, process or physical agent at a place of employment;
 - (z) requiring prompt notification of specified kinds of occupational injuries, illnesses and dangerous occurrences and prescribing actions to be taken or not to be taken to facilitate inquiry into and prevention of recurrences of such injuries, illnesses and dangerous occurrences;

- (aa) specifying conditions under which potentially hazardous work may be performed;
 - (bb) requiring notice to the division respecting any person, premises or thing employed or used in specified hazardous activities as a condition of initiating or carrying on any of those activities;
 - (cc) prescribing the form and content of any notice required to be given to the division;
 - (dd) requiring the establishment of one or more occupational health committees by one or more employers, contractors or owners with respect to workers, work activities or places of employment;
 - (ee) imposing duties on any person required to establish an occupational health committee with respect to the selection of members, the duties and responsibilities or the operation of the occupational health committee;
 - (ff) respecting the composition, duties and functions of occupational health committees, the duties and functions of occupational health and safety representatives and the participation of workers in inspections, investigations and related matters;
 - (gg) respecting the safety of any transportation provided by any prescribed person for use by workers;
 - (hh) establishing and imposing requirements for any place of employment according to the type of activities carried on, the number of workers, the degree of hazard to the health and safety of workers and other persons, or the frequency and seriousness of accidents and occupational diseases at the place of employment;
 - (ii) prescribing measures that employers must take to carry out their duties pursuant to clause 3(c);
 - (jj) prescribing places of employment or classes of places of employment at which an employer is required to develop and implement a policy statement with respect to potentially violent situations and prescribing provisions that must be incorporated in the policy statement;
 - (kk) prescribing fees payable for services other than regular inspections and investigations pursuant to this Act;
 - (ll) respecting or prescribing the conditions under which a licence, certificate or permit may be issued, suspended or cancelled;
 - (mm) respecting the forwarding of information to The Workers' Compensation Board by the director pursuant to section 83;
 - (nn) prescribing additional powers of adjudicators;
 - (oo) respecting any matter or thing that the Lieutenant Governor in Council considers necessary or advisable to carry out the intent and purpose of this Act;
 - (pp) prescribing or governing any other matter or thing required or authorized by this Act to be prescribed or governed in the regulations.
- (2) Any regulation made pursuant to this section may be made to apply:
- (a) to all persons, to one or more persons or to one or more categories of persons; or
 - (b) to all places of employment or worksites, to one or more places of employment or worksites or to categories of places of employment or worksites.
- (3) Any regulation made pursuant to this section may adopt by reference, in whole or in part, as amended from time to time or otherwise, with any changes that the Lieutenant Governor in Council considers necessary, any relevant code, standard or law made by the Government of Canada or any other relevant code, standard or law, and may require compliance with any code, standard or law so adopted.
- (4) Subject to subsection (5), no regulation made pursuant to this section comes into force until a period of not less than 60 days has elapsed after it is published in *The Saskatchewan Gazette*.
- (5) Subsection (4) does not apply where, in the opinion of the Lieutenant Governor in Council:
- (a) an emergency exists;
 - (b) a delay in the coming into force of a regulation would be contrary to the public interest; or
 - (c) the subject matter of the proposed regulation is of a minor nature.

Codes of practice

45(1) For the purpose of providing practical guidance with respect to the requirements of any provision of the regulations, the director may, after any consultation with interested persons or associations that the director considers advisable:

- (a) issue codes of practice;
 - (b) amend or repeal any code of practice issued pursuant to clause (a).
- (2) Where a code of practice is issued, amended or repealed, the director shall publish a notice in *The Saskatchewan Gazette* identifying the code of practice, specifying the provisions of the regulations to which it relates and stating

the effective date of the code of practice, amendment or repeal.

(3) The failure by a person to observe any provision of a code of practice is not of itself an offence.

(4) Where a person is charged with a breach of a regulation with respect to which the director has issued a code of practice, the code of practice is admissible as evidence in a prosecution for the violation of the regulation.

(5) A copy of a code of practice or an amendment to a code of practice that is certified to be a true copy by the director shall be received in evidence in any court without proof of the signature, appointment or authority of the director.

Exemptions

46(1) In order to meet the special circumstances in a particular case, the director may, on receipt of a written application and after any consultation with interested persons that the director considers advisable, exempt conditionally or otherwise any person or class of persons from any provision of the regulations or a code of practice.

(2) An exemption pursuant to subsection (1) shall be made only where the director is satisfied that the standard of health and safety of any worker is not materially affected by the exemption.

PART VIII

Appeals

Interpretation of Part

47 In this Part, "**decision**" includes:

- (a) the granting of an exemption;
- (b) the issuance, failure to issue, affirmation, amendment or cancellation of a notice of contravention; and
- (c) any other determination or action of an occupational health officer that is authorized by this Act.

Adjudicators

48(1) The Lieutenant Governor in Council, on the recommendation of the minister after consultation with labour organizations and employer associations, shall establish a list of adjudicators who are designated to hear appeals pursuant to this Part.

(2) In addition to any powers conferred on adjudicators by this Part, an adjudicator has:

- (a) the powers of a commissioner pursuant to *The Public Inquiries Act*; and
- (b) any prescribed powers.

Appeal to director

49(1) A person who is directly affected by a decision of an occupational health officer may, within 21 days after the date of the decision, appeal the decision to the director by notice in writing.

(2) On an appeal pursuant to subsection (1), the director shall:

- (a) affirm, amend or cancel the decision appealed against; and
- (b) provide written reasons for the decision made pursuant to clause (a).

Appeal to adjudicator

50(1) A person who is directly affected by a decision of the director may appeal the decision to an adjudicator in accordance with subsection (2) within 21 days after the date of the decision.

(2) An appeal pursuant to subsection (1) is to be commenced by filing a written notice of appeal with the director that:

- (a) sets out the names of all persons who have a direct interest in the decision appealed against;
- (b) identifies and states the decision appealed against;
- (c) sets out the grounds of the appeal; and
- (d) sets out the relief requested, including any request for the suspension of all or any portion of the decision appealed against.

(3) On receipt of a notice of appeal, the director shall:

- (a) transmit the notice of appeal to an adjudicator selected from the list mentioned in subsection 48(1); and
- (b) provide a copy of the notice of appeal to each person whose name is set out in the notice pursuant to clause (2)(a).

Referrals to adjudicator

51(1) Instead of hearing an appeal pursuant to section 49, the director may refer the appeal to an adjudicator by

forwarding to an adjudicator selected from the list mentioned in subsection 48(1):

- (a) the notice of appeal;
 - (b) all information in the director's possession that is related to the appeal; and
 - (c) a list of all persons who, in the opinion of the director, have a direct interest in the decision appealed against.
- (2) The director shall provide a copy of the notice of appeal and the information mentioned in clause (1)(b) to each person mentioned in clause (1)(c).

Hearing of appeals by adjudicator

52(1) An adjudicator shall, on receipt of a notice of appeal pursuant to section 50 or 51:

- (a) set a time, day and place for the hearing of the appeal; and
 - (b) give written notice of the time, day and place for the hearing to:
 - (i) the appellant;
 - (ii) each person mentioned in clause 51(1)(c); and
 - (iii) any other person that the adjudicator considers should be given notice.
- (2) An adjudicator may determine the procedures by which the hearing is to be conducted.
- (3) An adjudicator is not bound by the rules of law concerning evidence and may accept any evidence that the adjudicator considers appropriate.
- (4) An adjudicator may determine any question of fact that is necessary to the adjudicator's jurisdiction.
- (5) No proceedings before or by an adjudicator shall be invalidated by reason of any irregularity or technical objection.

Decisions of adjudicators

53(1) After a hearing pursuant to section 52, the adjudicator shall:

- (a) affirm, amend or revoke the decision appealed against; and
 - (b) provide written reasons for the decision to the director and all parties to the appeal.
- (2) A certified copy of a decision by an adjudicator may be filed in the office of the local registrar of Her Majesty's Court of Queen's Bench for Saskatchewan, and when so filed becomes a decision of the court and may be enforced as such.

Decisions not suspended by appeals

54(1) Subject to subsections (2) and (3), the commencement of an appeal pursuant to subsection 49(1) or 50(1) does not suspend the operation of a decision that is the subject of the appeal.

- (2) The director may, on the director's own motion, suspend the operation of all or any portion of a decision that is being appealed to the director.
- (3) An adjudicator may, on the adjudicator's own motion, suspend the operation of all or any portion of a decision that is being appealed to the adjudicator.

Discriminatory action during appeal

55 (1) The director or an adjudicator, as the case may be, shall order the employer of a worker to comply with subsection (2) where:

- (a) the worker commences an appeal on the basis of a decision made by an occupational health officer pursuant to subsection 25(2);
 - (b) the director or the adjudicator amends the decision of the occupational health officer and decides that the act or series of acts is or was unusually dangerous to the health or safety of the worker or any other person at the place of employment; and
 - (c) in the opinion of the director or adjudicator, the employer has, on or after the day on which the occupational health officer advised the employer and the worker of his or her decision pursuant to subsection 25(2), taken discriminatory action against the worker as a result of the worker's refusal to perform certain acts pursuant to section 23.
- (2) An employer who is subject to an order pursuant to subsection (1):
- (a) shall cease the discriminatory action;
 - (b) where the discriminatory action changed the worker's employment status or the terms and conditions of the worker's employment, shall reinstate the worker to his or her former employment on the same terms and conditions under which the worker was employed before the discriminatory action was taken;

(c) where the discriminatory action adversely affected the wages of the worker, shall pay to the worker any wages that the worker would have earned if the discriminatory action had not been taken against the worker; and

(d) shall remove from any employment records maintained by the employer any reprimand or reference to the matter that was the subject of the appeal.

Appeal to Queen's Bench

56(1) An appeal lies to Her Majesty's Court of Queen's Bench for Saskatchewan from:

(a) a decision of an adjudicator on a question of law or a question of jurisdiction; and

(b) a decision of an adjudicator in relation to section 33.

(2) The decision of Her Majesty's Court of Queen's Bench for Saskatchewan on an appeal pursuant to this section is final and conclusive, and is not open to review or appeal on any grounds.

PART IX

Offences and Penalties

Offences

57 Every person who:

(a) fails to discharge a duty to which the person is subject pursuant to section 3, 4, 5, 6, 7, 8, 9, 12, 13, 14, 40 or 41;

(b) contravenes a regulation;

(c) fails to comply with any requirement or contravenes any prohibition imposed by a notice of contravention, including any requirement or prohibition contained in the notice of contravention as modified on appeal;

(d) intentionally obstructs an occupational health officer in the exercise of the officer's powers or the performance of the officer's duties;

(e) intentionally makes or causes to be made a false entry in any register, book, notice or other document to be kept by the person pursuant to this Act or the regulations, or deletes or destroys any true or proper entry in any of those documents;

(f) takes discriminatory action against a worker contrary to section 27;

(g) fails to comply with an order, decision or direction made pursuant to this Act or the regulations; or

(h) contravenes any other provision of this Act;

is guilty of an offence.

Penalties

58(1) Subject to subsection (2), every person who is guilty of an offence mentioned in clause 57(d), (e) or (g) that does not cause and is not likely to cause the death of or serious injury to a worker is liable on summary conviction to a fine not exceeding \$2,000.

(2) Every person who is guilty of an offence mentioned in clause 57(g) because of a failure by the person to comply with a decision or order of the director pursuant to section 49 or with a decision or order of an adjudicator is liable on summary conviction, in addition to any other fine or penalty imposed pursuant to this Act:

(a) to a fine not exceeding \$5,000; and

(b) to a further fine not exceeding \$500 for each day or portion of a day during which the offence continues.

(3) Every person who is guilty of an offence mentioned in clause 57(a), (b), (c), (f) or (h) that does not cause and is not likely to cause the death of or serious injury to a worker is liable on summary conviction to the appropriate fine set out in subsection (4).

(4) A person who is convicted of an offence mentioned in subsection (3) is liable:

(a) for a first offence:

(i) that is a single, isolated offence, to a fine not exceeding \$10,000;

(ii) that is a continuing offence:

(A) to a fine not exceeding \$10,000; and

(B) to a further fine not exceeding \$1,000 for each day or portion of a day during which the offence continues;

(b) for a second or subsequent offence:

(i) that is a single, isolated offence, to a fine not exceeding \$20,000;

(ii) that is a continuing offence:

- (A) to a fine not exceeding \$20,000; and
 - (B) to a further fine not exceeding \$2,000 for each day or portion of a day during which the offence continues.
- (5) Every person who is guilty of an offence mentioned in section 57 that does not cause but is likely to cause serious injury or death to a worker is liable on summary conviction to the appropriate fine set out in subsection (6).
- (6) A person who is convicted of an offence mentioned in subsection (5) is liable:
- (a) for a first offence:
 - (i) that is a single, isolated offence, to a fine not exceeding \$50,000;
 - (ii) that is a continuing offence:
 - (A) to a fine not exceeding \$50,000; and
 - (B) to a further fine not exceeding \$5,000 for each day or portion of a day during which the offence continues;
 - (b) for a second or subsequent offence:
 - (i) that is a single, isolated offence, to a fine not exceeding \$100,000;
 - (ii) that is a continuing offence:
 - (A) to a fine not exceeding \$100,000; and
 - (B) to a further fine not exceeding \$10,000 for each day or portion of a day during which the offence continues.
- (7) Every person who is guilty of an offence mentioned in section 57 that causes the death of or serious injury to a worker is liable on summary conviction to a fine not exceeding \$300,000.
- (8) Where an individual is convicted of an offence mentioned in subsection (7), the convicting judge or justice, in addition to imposing a fine, may order that the convicted individual be imprisoned for a term not exceeding two years.

Default in payment of fine

- 59(1) Where a person who has been convicted of an offence mentioned in section 57 is in default of a fine imposed pursuant to section 58:
- (a) notwithstanding section 29 of *The Summary Offences Procedure Act, 1990*, imprisonment in default of the payment shall not be ordered; and
 - (b) the convicting judge or justice shall, on the request of the minister, supply the minister with two certified copies of the person's conviction and sentence.
- (2) The minister or the minister's solicitor or agent may, on payment of the prescribed fee, file a certified copy of a conviction for an offence mentioned in section 57 with the office of the local registrar for Her Majesty's Court of Queen's Bench for Saskatchewan at any judicial centre.
- (3) A certified copy of a conviction filed pursuant to subsection (2) shall, for the purpose of recovering the fine or any sum ordered to be paid, be entered as a judgment of Her Majesty's Court of Queen's Bench for Saskatchewan and may be enforced as a judgment of that court.

Offences by corporations, etc.

60 Where a corporation is guilty of an offence mentioned in section 57, every officer, director, manager or agent of the corporation who directed, authorized or participated in the commission of the offence is also guilty of the offence and is liable on summary conviction to the penalties for the offence that are set out in section 58 whether or not the corporation has been prosecuted.

Vicarious liability

61 In a prosecution of an offence pursuant to this Act, any act or neglect on the part of a manager, agent, representative, officer, director or supervisor of the accused, whether or not the accused is a corporation, is deemed to be the act or neglect of the accused.

Evidence

62 In any proceedings for an offence pursuant to this Act or the regulations consisting of a failure to comply with a duty or requirement to do something so far as is practicable or so far as is reasonably practicable, or to use the best practicable means to do something, it shall be for the accused to prove, as the case may be, that it was not practicable or not reasonably practicable to do more than was actually done to satisfy the duty or requirement, or that there was no better practicable means than was actually used to satisfy the duty or requirement.

Limitation

63 No prosecution with respect to an alleged offence pursuant to this Act or the regulations is to be commenced after two years from the day of the commission of the alleged offence.

PART X**Medical Examinations and Treatment****Medical examinations**

64(1) The chief occupational medical officer may, with the consent of each worker being examined, carry out or arrange to have carried out by another physician at the expense of the employer any medical examinations of workers that the chief occupational medical officer considers advisable for the purposes of this Act.

(2) Medical examinations mentioned in subsection (1) may be conducted during working hours without loss in pay to the worker or workers being examined, and the employer shall, if required by the physician, provide suitable accommodation at the place of employment for the examinations and shall otherwise facilitate the performance of the examinations.

Confidentiality

65 A physician or other qualified person who conducts a medical examination of a worker pursuant to section 64 shall not communicate, to the employer or to any person other than the worker or the worker's physician, any information that the physician or qualified person becomes aware of during the course of the medical examination unless the communication:

- (a) is made to the chief occupational medical officer at the request of the chief occupational medical officer;
- (b) is expressly authorized by the worker; or
- (c) is in a form that will prevent the information from being identified with a particular person or case.

Power to require alternative work

66 Where it appears to the director on the advice of the chief occupational medical officer that a worker has been overexposed to a harmful substance and that a temporary removal from the hazard will enable the worker to resume his or her usual work, the director may order the employer to provide, without loss of pay to the worker, temporary alternative work that, in the opinion of the director, is suitable, for any period of time that the director may specify.

Reports to be furnished by physician, hospital, etc.

67(1) Every physician or other qualified person who is attending or who has been consulted respecting a worker or self-employed person who:

- (a) became ill or injured while employed at a place of employment or while being otherwise engaged in an occupation; or
- (b) has been examined pursuant to section 64;

shall, on the request of the chief occupational medical officer, furnish the officer with any reports concerning the condition of the worker or self-employed person that the chief occupational medical officer may require for the purposes of this Act.

(2) Notwithstanding the provisions of any other Act or law in force in the province, where a worker or self-employed person mentioned in subsection (1) is or has been a patient in a hospital, the person in charge of the administrative affairs of that hospital shall, on request, without charge furnish the chief occupational medical officer with any reports concerning the condition of the worker or self-employed person that the chief occupational medical officer may require for the purposes of this Act.

PART XI
Administration

Continuation of division; director

68(1) The Occupational Health and Safety Branch is continued as the Occupational Health and Safety Division.

(2) The minister shall appoint a director of the division, and the director shall administer and manage the affairs of the division.

Functions of division

69 Subject to the direction of the minister, the division:

- (a) is concerned with occupational health and safety generally and the maintenance of reasonable standards for the protection of the health and safety of workers and self-employed persons in Saskatchewan;
- (b) is responsible for the administration of this Act and the regulations;

- (c) either alone or in conjunction with The Workers' Compensation Board and the Department of Health, shall prepare and maintain morbidity and accident statistics relating to workers and self-employed persons; and
- (d) for the purposes of carrying out the provisions of this Act and the regulations and of any other Act or regulations administered by the minister, shall do any other things in connection with health and safety that the minister may direct.

Powers of division

70 The division may, subject to the direction of the minister:

- (a) provide assistance to persons concerned with occupational health and safety and provide services to assist occupational health committees, occupational health and safety representatives, employers, workers and self-employed persons in maintaining reasonable standards for the protection of the health and safety of workers and self-employed persons;
- (b) promote or conduct studies and research projects in connection with problems relating to the health and safety of workers;
- (c) encourage or conduct educational programs including seminars and courses of training for promoting the health and safety of workers and for improving the qualifications of persons involved in the promotion of occupational health and safety;
- (d) subject to any regulations made by the Lieutenant Governor in Council, make grants for any of the purposes mentioned in this section;
- (e) perform any other functions that the minister may direct.

Appointment of occupational health officers

71(1) The minister may appoint as occupational health officers any of the persons employed by or providing services to the division.

- (2) The minister may enter into an agreement with the government of any province specifying the terms and conditions under which a person employed by the government of that province may, for the purposes of this Act, act as an occupational health officer in Saskatchewan.
- (3) The minister may, on any terms and conditions that the minister considers necessary, consent to have an occupational health officer carry out health and safety inspections or other work on behalf of the government of another province or territory of Canada or on behalf of the Government of Canada.
- (4) The minister shall provide each occupational health officer with written credentials of the officer's appointment, and the occupational health officer shall produce those credentials on request when exercising or seeking to exercise any of the powers conferred on the officer by this Act or the regulations.

Inspection, investigation, search

72(1) For the purposes of enforcing and administering this Act or the regulations, an occupational health officer may:

- (a) subject to subsection (2), at any reasonable time of day or night and without prior notification, enter any premises, place of employment or vehicle where the officer has reason to believe that workers or self-employed persons work or have worked;
 - (b) make any inspection, investigation or inquiry that the officer considers necessary;
 - (c) require the use of any machinery, equipment, appliance or thing located at the place or premises to be demonstrated for the purposes of the inspection, investigation or inquiry;
 - (d) conduct any tests, take any samples and make any examinations that the officer considers necessary or advisable;
 - (e) take one or more persons to any place of employment to assist the officer and may make arrangements with the person in charge of the place of employment for those persons to re-enter the place of employment to perform specified duties;
 - (f) require the production of, inspect and take copies of any books, records or documents kept pursuant to this Act or the regulations or of any entry in those books, records or documents;
 - (g) subject to subsection (3), remove any books, records or documents examined pursuant to this section for the purpose of making copies where a copy is not readily available, if a receipt is given;
 - (h) require any person whom the officer finds in or at a place of employment to provide the officer with any information the person can respecting the identity of the employer at that place of employment.
- (2) An occupational health officer shall not enter a private dwelling without a warrant issued pursuant to subsection (4) unless the occupant of the dwelling consents to the entry.
- (3) An occupational health officer who removes any books, records or documents pursuant to this section for the purpose of making copies shall:
- (a) make those copies as soon as reasonably possible; and
 - (b) promptly return the books, records, papers or documents from which the copies were made to:
 - (i) the place from which they were removed; or
 - (ii) any other place that may be agreed to by the officer and the person who produced them.

- (4) A justice of the peace or a judge of the Provincial Court of Saskatchewan may issue a warrant authorizing an occupational health officer to enter and search any place or premises or search any vehicle named in the warrant where the officer believes, on reasonable and probable grounds, that:
- (a) an offence against this Act has been or is being committed; and
 - (b) there is evidence of the offence to be found:
 - (i) at the place or premises proposed to be searched; or
 - (ii) in the vehicle proposed to be searched.
- (5) An occupational health officer with a warrant issued pursuant to subsection (4) may:
- (a) enter and search any place or premises named in the warrant;
 - (b) search any vehicle named in the warrant;
 - (c) require the use of any machinery, equipment, appliance or thing located at the place or premises to be demonstrated for the purposes of the search; and
 - (d) seize and remove from any place, premises or vehicle searched anything that may be evidence of an offence against this Act.
- (6) An occupational health officer may exercise all or any of the powers mentioned in subsection (5) without a warrant issued pursuant to subsection (4) if:
- (a) the conditions for obtaining a warrant exist; and
 - (b) the officer believes, on reasonable and probable grounds, that the delay necessary to obtain a warrant would result in the loss or destruction of evidence.
- (7) No person shall obstruct an occupational health officer who is authorized to conduct an inspection, investigation, inquiry or search pursuant to this section.

Obtaining information

73 For the purpose of obtaining any information that the division needs for the performance of its duties and the exercise of its powers, the director may direct any person to furnish the director with any information in any form and manner and within any time that the director may specify.

Occupational Health and Safety Council

74(1) The Occupational Health Council is continued under the name of the Occupational Health and Safety Council.

(2) The membership of the Occupational Health and Safety Council is continued but, subject to this section, may be changed from time to time by the Lieutenant Governor in Council.

- (3) The Occupational Health and Safety Council shall consist of a maximum of nine members including:
 - (a) a chairperson appointed by the Lieutenant Governor in Council, on the recommendation of the minister; and
 - (b) an even number of members appointed by the Lieutenant Governor in Council on the recommendation of the minister, half of whom represent workers and half of whom represent employers.
- (4) The minister shall:
 - (a) from a list of nominees provided to the minister by labour organizations, recommend persons for appointment as members who represent workers; and
 - (b) from a list of nominees provided to the minister by employer associations, recommend persons for appointment as members who represent employers.
- (5) Members of the Occupational Health and Safety Council:
 - (a) shall be appointed for a term not exceeding three years;
 - (b) may be reappointed from time to time; and
 - (c) shall hold office until a successor is appointed.
- (6) A majority of the appointed members of the Occupational Health and Safety Council constitute a quorum where at least two members who represent workers and two members who represent employers are present.

Duties of Occupational Health and Safety Council

- 75(1) The Occupational Health and Safety Council shall meet at the call of the minister or the chairperson but in any case at least once in each year.
- (2) The Occupational Health and Safety Council shall be concerned with:
 - (a) occupational health and safety generally and the protection of workers and self-employed persons in specific kinds of situations;
 - (b) the appointment of advisory committees by the minister to assist in the administration of this Act;
 - (c) any matter relating to occupational health and safety on which the minister seeks the opinion of the Occupational Health and Safety Council; and
 - (d) the giving of advice or the making of recommendations to the minister on any matter mentioned in this subsection.

Farm Health and Safety Council

- 76(1) The Farm Health and Safety Council is established.
- (2) The Farm Health and Safety Council shall consist of not more than nine members, including the chairperson, appointed by the Lieutenant Governor in Council.
- (3) A majority of the members of the Farm Health and Safety Council are to be persons who operate or work on a farm.
- (4) Each person appointed pursuant to subsection (2) is to be a person who:
 - (a) is associated with farming; and
 - (b) in the opinion of the Lieutenant Governor in Council, possesses particular knowledge and experience that would assist the Farm Health and Safety Council in advising on matters related to:
 - (i) the promotion of the health or safety of persons on farms; or
 - (ii) the protection of persons on farms.
- (5) Members of the Farm Health and Safety Council:
 - (a) shall be appointed for a term not exceeding three years;
 - (b) may be reappointed from time to time; and
 - (c) shall hold office until a successor is appointed.
- (6) A majority of the members of the Farm Health and Safety Council constitute a quorum where:
 - (a) at least half of that majority consists of members who operate or work on a farm; and
 - (b) at least two members who do not operate or work on a farm are present.

Duties of Farm Health and Safety Council

- 77(1) The Farm Health and Safety Council shall meet at the call of the minister or the chairperson but in any case at least once in each year.
- (2) The Farm Health and Safety Council shall be concerned with:
 - (a) the promotion of the health or safety of persons on farms and the protection of persons on farms;
 - (b) any matter relating to the health or safety of persons on farms on which the minister seeks the opinion of

the Farm Health and Safety Council; and
(c) the giving of advice or the making of recommendations to the minister with respect to any matter mentioned in this subsection.

Certain powers of minister

78(1) The minister may:

- (a) give direction to the division in the performance of any of its functions mentioned in section 69 or in the exercise of any of its powers pursuant to section 70;
 - (b) approve, with or without modification, any recommendation made to the minister by the Occupational Health and Safety Council pursuant to section 75 or by the Farm Health and Safety Council pursuant to section 77;
 - (c) call a meeting of the Occupational Health and Safety Council pursuant to section 75 or the Farm Health and Safety Council pursuant to section 77;
 - (d) appoint advisory committees or consultants from among persons who are professionally or technically qualified to advise the minister or to assist in the administration of this Act and the regulations;
 - (e) direct the director or chief occupational medical officer, or authorize any other person, to investigate and make a special report to the minister on any matter concerning occupational health and safety;
 - (f) appoint a person to conduct a public or private inquiry into any matter concerning occupational health and safety;
 - (g) do any other thing that the minister considers necessary to carry out the intent of this Act and the regulations.
- (2) The minister shall arrange for remuneration and expenses to be paid in the amounts that the minister considers advisable:
- (a) subject to the approval of the Lieutenant Governor in Council, to members of the Occupational Health and Safety Council or the Farm Health and Safety Council;
 - (b) to members of advisory committees appointed pursuant to subsection (1);
 - (c) to consultants and investigators appointed pursuant to subsection (1); and
 - (d) to a person carrying out medical examinations pursuant to section 64 and making reports pursuant to section 67 who cannot otherwise be remunerated or reimbursed from public funds.
- (3) Persons appointed by the minister pursuant to clause (1)(f) have all the powers of commissioners pursuant to *The Public Inquiries Act*.

Chief occupational medical officer

- 79(1) The minister shall appoint as chief occupational medical officer a physician who has training or experience in occupational health.
- (2) The chief occupational medical officer has all the powers of an occupational health officer and any other powers that may be conferred on the chief occupational medical officer by this Act or the regulations.

PART XII
General

Act binds Crown

80 The Crown in right of Saskatchewan, and the Crown in right of Canada insofar as it may submit to the operation of this Act, are bound by the provisions of this Act.

Appropriation

81 Sums required for the purposes of this Act may be paid out of moneys appropriated by the Legislature for the purpose.

Costs of administration of industrial safety program

- 82(1) On or before June 30 in each year, the minister shall advise The Workers' Compensation Board of the estimated cost for that calendar year of the administration by the minister of the industrial safety program pursuant to this Act.
- (2) On being advised of the estimated cost for a calendar year pursuant to subsection (1), The Workers' Compensation Board shall, on or before January 31 of the year next following, pay into the consolidated fund with respect to those costs the sum that the Lieutenant Governor in Council may direct, not exceeding the actual costs of the administration of the industrial safety program for that calendar year.

Forwarding information to WCB

83(1) Subject to subsection (2) and to the regulations, the director may forward to The Workers' Compensation Board any information respecting the occupational health and safety practices of an employer or any class of employers that the director considers appropriate for the purpose of improving occupational health and safety.

(2) Not less than 14 days before information is forwarded to The Workers' Compensation Board, the director shall send to an employer who is the subject of the information a copy of all information being forwarded to the board that has not been previously provided to the employer.

Review of Act

84 The Occupational Health and Safety Council shall, at the request of the minister and at least once every five years, review the adequacy of this Act and its administration and report the findings and recommendations of the Occupational Health and Safety Council to the minister.

Immunity

85 No action lies or shall be instituted against:

- (a) the minister;
- (b) the Occupational Health and Safety Council;
- (c) a member of the Occupational Health and Safety Council;
- (d) the Farm Health and Safety Council;
- (e) a member of the Farm Health and Safety Council;
- (f) the director;
- (g) the chief occupational medical officer;
- (h) an occupational health officer;
- (i) an occupational health and safety representative;
- (j) any employee or agent of the department;
- (k) an occupational health committee; or
- (l) a member of an occupational health committee in his or her capacity as a member of an occupational health committee;

where that person, council or committee is acting pursuant to the authority of this Act or the regulations, for any loss or damage suffered by a person by reason of anything in good faith done, caused, permitted or authorized to be done, attempted to be done or omitted to be done, by the person, council or committee, pursuant to or in the exercise or supposed exercise of any power conferred by this Act or the regulations or in the carrying out or supposed carrying out of any function or duty imposed by this Act or the regulations.

Director's decisions to be posted

86(1) The director shall cause the following documents to be posted in at least two conspicuous locations at the place of employment of every worker or self-employed person who is or may be directly affected by the exemption, decision or suspension of a decision:

- (a) a notice of any exemption granted by the director pursuant to subsection 10(2) or section 46;
- (b) a copy of any decision of the director and the written reasons for the decision provided pursuant to subsection 49(2);
- (c) notice of any suspension by the director of all or any portion of a decision pursuant to subsection 54(2).

(2) No person shall remove, alter, damage or deface any notice or other document posted pursuant to subsection (1) without the prior authorization of an occupational health officer or the director.

Promptness of decisions

87 A decision that is required to be made pursuant to this Act or the regulations by an occupational health officer or the director must be made as soon as is reasonably possible.

PART XIII

Repeal, Transitional, Consequential Amendments and Coming into force

R.S.S. 1978, c.O-1 repealed

88 *The Occupational Health and Safety Act* is repealed.

Transitional

89(1) Notwithstanding the repeal of *The Occupational Health and Safety Act*:

- (a) all notices of contravention issued pursuant to *The Occupational Health and Safety Act* remain in force and may be enforced in accordance with that Act as it existed immediately before the coming into force of section 88;
 - (b) all codes of practice approved by the director pursuant to *The Occupational Health and Safety Act* that are in force immediately before the coming into force of section 45 are deemed to have been issued pursuant to section 45 and remain in force until they are amended or repealed;
 - (c) all offences pursuant to *The Occupational Health and Safety Act* that were committed before the coming into force of section 88 may be prosecuted in accordance with that Act and are liable to the penalties provided in that Act;
 - (d) all proceedings commenced pursuant to *The Occupational Health and Safety Act* before the coming into force of section 88 are continued pursuant to that Act;
 - (e) all rights of appeal pursuant to *The Occupational Health and Safety Act* with respect to any matter that occurred before the coming into force of section 88 are continued until the expiry of the appeal period provided for in that Act or the final determination of the appeal in accordance with that Act.
- (2) All exemptions and approvals granted by the director pursuant to *The Occupational Health and Safety Act* are continued and remain in force until they are amended or revoked.

Consequential amendments

90(1) **Subclause 21(2)(b)(ii) of *The Medical Laboratory Licensing Act* is repealed and the following substituted:**

- "(ii) *The Occupational Health and Safety Act, 1993*".**
- (2) Section 145 of *The Northern Municipalities Act* is amended by striking out "*The Occupational Health and Safety Act*" and substituting "*The Occupational Health and Safety Act, 1993*".**
- (3) Clause 2(i) of *The Workers' Compensation Act, 1979* is amended by striking out "*The Occupational Health and Safety Act*" and substituting "*The Occupational Health and Safety Act, 1993*".**

Coming into force

91 This Act or any provision of this Act comes into force on a day or days to be fixed by proclamation of the Lieutenant Governor.