

## What's a Committee to Do?

If you are in the business of working with Joint Health and Safety Committees (JH&SC) in Ontario, you come across committees of all shapes, sizes and degrees of effectiveness. A few are models of efficiency, spending their time discussing the right topics, auditing the program in their workplace, and holding their employer accountable for operating a tight OH&S ship. Others, well, not so much. The agenda is littered with topics inappropriate for a JH&SC, topics cropping up from meeting to meeting with no resolution, or no mention of issues that should be discussed.

If you have gone through a certification training course recently, you probably remember spending some time on Section 9 of the OH&S Act. It is all about JH&SCs. Subsection 18 spells out what the function of the committee is, or should be. Clauses (a) and (b) are featured prominently in certification training, and if you are certified you should remember that clause (a) says the JH&SC is to identify sources of danger and hazards to workers, and clause (b) says the JH&SC is to make recommendations to the employer and the workers for the improvement of the health and safety of workers.

**The job of clause (a)** – hazard identification - is accomplished by workplace inspections, review of safety data sheets, accident investigations, talking to those who actually do the job, going to safety seminars and conferences, etc., etc.

**The job of clause (b)** – making recommendations – is accomplished by, well, making recommendations. Many committees never make a single recommendation.

- Is that because management agrees with every suggestion made at the meeting, resolves, immediately, every concern, and, in essence, operates a perfect OH&S program or
- it because the committee never gets around to making a recommendation?

Recommendations record the issue in writing, and start the clock ticking towards getting the hazard addressed. If you are not sure how this clock operates, read clauses (20) and (21) of section 9. Of course, the committee may not know what to recommend, as some situations are complex. In that case, recommend that the employer bring in an expert to investigate the situation and report to the committee. Finally, remember that the wording of clause (b) includes making a recommendation to the employer and the workers – this is not a secret document from the committee to the employer. The workers should know what you are recommending and why, as well as what the response is.



## Test Yourself

First Correct answer wins a prize – answer to be published on the web site.

Could you be charged under the OHS Act for using cell phones on lift trucks?

Send your answer by email to: [newsletter@safetyscope.net](mailto:newsletter@safetyscope.net)

## This Month's Tip:

Do you understand the difference between constructor and contractor, as described in the government [Constructor Guideline](#).

Failing to do so could be seen as retaining control - and liability - for health and safety.

## Think about it.

## Safetyscope Upcoming courses

Working at Heights Mar 6,  
Working at Heights refresher  
Mar 13, 27

## Confined Space Awareness

Mar 9 - 10

## Confined Space Rescue

May 25-28



## First Aid

May 6 - 7

**Competent Supervisor** Mar 26

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Identifying hazards and recommending improvements is what the JH&SC should be spending the meeting discussing, and this would go a long way toward making the workplace safer.

### **But is that all?**

Subsection 18 of Section 9 has four more clauses which often do not get the same attention as the first two.

**Clause (c)** says the committee is to recommend to the employer (and workers) programs and procedures respecting the health and safety of workers. This is accomplished by knowing what the hazards of the workplace are, and what health and safety programs should be in place to address them. If the committee is aware of an unaddressed hazard, or a hazard addressed in other similar workplaces but not their workplace, this should lead to a recommendation. Management is responsible for operating the OH&S program, but, the committee is responsible for reviewing it and recommending improvements when needed.

**The employer can't audit itself.** The questions Committees and workers need to ask themselves are:

- Does the H&S program address all hazards and are there training and refresher training requirements for all workplace hazards?
- Is it implemented (being followed, being enforced)?
- Is the employer consulting the JHSC or H&S Reps with regards to the H&S program and training as required by the legislation?

**Clause (d)** says the JH&SC is to obtain information from the employer about (i) the identification of hazards, and (ii) health and safety experience and work practices in similar or other industries. Clause (d) enables the committee to actually fulfill the requirements of clause (c) – the committee can make recommendations to improve the programs to address hazards by asking the employer to get the necessary information from other employers who also have that hazard.

**Clause (e)** says the committee can obtain information from the employer about any occupational health and safety tests run in the workplace. These can range from air quality to noise levels to radiation monitoring to temperature levels, etc., and means that the committee can see the same data that the employer sees regarding workplace conditions.

**Clause (f)** says the committee can be consulted about and have a worker member present at the beginning of any of the tests described in clause (e). This is to make sure that the testing is done under normal operating conditions, at a typical time during the workday and work week, so that the data is truly representative. This is accomplished by the employer ensuring that the committee is aware of all occupational health and safety tests before they are conducted, and by the committee sending a representative to the testing who is familiar with the area and the object of the testing.

Subsection 18 of Section 9 is often abbreviated to “recognizing hazards and making recommendations to the employer”. In fact, the six clauses work together to ensure that the committee has access to all of the information it needs to review, assess and improve the employer’s OH&S program. If your JH&SC seems to have stalled, or is spending time on matters that are not really OH&S issues, why not start using the power given to committees in Section 9, subsection 18? JH&SC’s that focus on their job of reviewing, assessing and working with the employer to improve the OH&S program in their workplace will find they usually have more than enough work to do – and it is work that can make a difference.

### **MLTSD Pre-Start Health and Safety Review Consultation**

Section 7 of the Industrial Establishments regulation (Regulation 851) under the Occupational Health and Safety Act (OHSA) requires that a pre-start health and safety review be carried out on certain machinery, protective elements, structures and processes before they are put into service for the first time or if modifications are needed (see subsection 7(2)). The section applies only to factories (as defined in the OHSA) and not other types of workplaces that are also defined as industrial establishments (offices, arenas, etc.).

The Ministry of Labour, Training and Skills Development is reviewing the current pre-start health and safety review requirements, also known as pre-start review (PSR) requirements, to ensure that they continue to reflect the realities of today's workplaces. While maintaining existing worker health and safety protections, the review will consider whether:

1. there are opportunities to streamline the existing requirements or reduce burden on business,
2. the equipment and processes that trigger a PSR are appropriate, and
3. there are ways to make the requirements clearer and easier to understand.

For more information on the proposals please [Click Here](#).

### **How to Protect Your Workplace From Coronavirus**

In Canada, risk of an outbreak remains low, as infected individuals have been or are currently in isolation and are being monitored, along with suspected cases.

There are several precautions employers can take to prevent the spread of illness in their workplaces.

The same measures can be taken as for a regular flu.

- Employers should advise their staff of correct hand-washing procedures, send out a communication regarding this and put up posters in the washrooms.
- Additionally, employers should make hand sanitizers available to staff.
- Workers should also be reminded to sneeze and cough into tissues and dispose of them immediately, or into their elbows or sleeves.
- If workers are experiencing symptoms of the flu, employers should encourage them to remain at home and to seek medical help if the symptoms worsen. If working from home is possible, this option can be made available to ill employees to cause as little disruption to business as possible.

Before sending employees home, employers should be aware of their provincial human rights legislation. Barring employees from the workplace without good reason creates risk of a human rights complaint from the employee.

“Employers must first determine whether their employee has recently visited China or has been in contact with someone who has recently visited China, and determine whether the employee is experiencing symptoms of the cold or flu,” says Ryan Wozniak, senior vice-president of legal and operations at Peninsula Canada, an HR and OHS consultancy in Toronto.

That said, all health organizations have advised that the risk in Canada is extremely low.

**JHSC Powers**

**Do Your Committee's Know What the Act gives Them Power to Do?**

The legislation directs the employer to consult directly with the committee on a number of specific issues. Does your committee:

<input type="checkbox"/>		<b>Audit (review) your employer's Health and Safety Program and training</b>
<input type="checkbox"/>		<b>Consult with your employer about:</b>
<input type="checkbox"/>		Having a designated member representing workers present at the beginning of, testing referred to in clause (e) conducted in or about the workplace if the designated member believes his or her presence is required to ensure that valid testing procedures are used or to ensure that the test results are valid. S9(18)
<input type="checkbox"/>		Proposed testing strategies for investigating industrial hygiene. S 11 (1)
<input type="checkbox"/>		Developing and maintaining a written programs to implement the policies with respect to workplace violence and harassment required under clause 32.0.1 to S32.0.8
<input type="checkbox"/>		Making safety data sheets available in the workplace or furnishing them as required by clauses (1) (a) and (b) and subsection (1.1). S 38 (6)
<input type="checkbox"/>		The development and implementation of the instruction and training to be given under S42 subsection (1) by the employer (WHMIS). S42 (2)
<input type="checkbox"/>		The training and instruction provided to a worker under S 42, and the worker's familiarity therewith at least annually.
<input type="checkbox"/>		<b>Receive reports concerning occupational health and safety.</b>
<input type="checkbox"/>		First Aid reports, incident and near miss reports, training reports Completed hazard management plans (HMP), emergency practice results
<input type="checkbox"/>		Any occupational hygiene or similar testing reports. S9 (18)(e)
<input type="checkbox"/>		Incidents where a person is disabled from performing his or her usual work or requires medical attention because of an accident, explosion, fire or incident of workplace violence at a workplace S 52(1)
<input type="checkbox"/>		Incidents where an employer is advised by or on behalf of a worker that the worker has an occupational illness or that a claim has been filed S 52 (2)
<input type="checkbox"/>		<b>Receive notifications where a person is killed or critically injured from any cause S 51 (1)</b>

If your JHSC is not then it is time to start reviewing the programs to see they are implemented, reviewing the training to ensure it is achieving it's goal and recommend to the employer to start sending you the reports.

### In the Courts

#### **Feb 12, 2020 Vixman Construction Ltd., fined \$125,000 and 18 Months' Probation - Working at Heights Fatality**



Two workers were working and all of the fall protection equipment was appropriate for the tasks involved and functioning properly. They were moving the anchorage of their SRLs as they advanced. The first worker, with his supervisor standing beside him, anchored his SRL by choking a cable around an upright column supporting the roof structure. The worker was approximately 3.5 metres above the ground. The SRL block was lying on the already installed roof sheeting. He extended his lifeline approximately 6 metres from the anchored SRL block, across an open area.

The worker movements pulled the SRL block over the edge of the installed sheeting. As it was attached to a vertical column, and not to a horizontal member, the block dropped until its mechanism engaged. This exerted a pulling force on the worker's body and he fell from the work surface. As he hit the ground, and suffered fatal injuries.

The Court found that the SRL had not been attached to a fixed support, and that the length of the extended lifeline, over an open area, was not a safe configuration of the fall protection equipment. Vixman Construction Ltd was found guilty of failing as employer to ensure measures and procedures prescribed in S 26.6 (2) and 26.6(3) of Reg. 213 were carried out, contrary to section 25(1)(c) of the OH&SA.

#### **January 24, 2020 Karmax Heavy Stamping fined \$60,000 Falling on Stairs Injury**

A worker was assisting another in carrying equipment part while ascending two stairs to reach the top of a platform. The worker fell while ascending the second step, just prior to reaching the platform, sustaining an injury.

A (then) Ministry of Labour investigation determined that the stairs were inconsistent in their rise. An ergonomist concluded that the two-person lift-and-carry task required the workers' attention to be split between the safe handling of the load, lifting as a team, and ascending onto the platform. The attention required when performing a team lift - combined with the variances between adjacent steps - was a hazard with respect to tripping and falling on the stairs.

Given these circumstance, Karmax failed as an employer to ensure that the carrying of the load in tandem on the stairs did not endanger the safety of any worker as prescribed by section 45(a) of the Regulation 851 at the workplace, contrary to S 25(1)(c) of the OH&SA

#### **January 22, 2020 Prestressed Systems Inc. Fined \$175,000 Fatality**

Workers were working on the concrete form for a large pre-stressed bridge girder that PSI had been hired to manufacture for the Nagagami River Bridge project. The process of pre-stressing concrete is a means of increasing the strength of a concrete structure, using tensioned steel cable strands embedded inside the concrete.

The (then) Ministry of Labour's investigation determined that one of the key contributing factors to the incident was the company's failure to use a wire guide on the de-tensioning end of the cable strands as required by the manufacturer of the de-tensioning equipment. Because no wire guide was in place, the anchor plates slid from their supports and catastrophically failed.

[Click for more Information](#)

## In the Courts

### Jan 17 2020 ArcelorMittal Dofasco MP Inc. Fine of \$290,000 for Two Workplace Incidents

While sweeping this area, the blast furnace valves malfunctioned, causing the gases and dust contained in the furnace to erupt and to engulf the workers.

The workers were wearing carbon monoxide detectors which began sounding alarms to a point beyond the detectors' ability of 1,000 ppm (parts of gas per million parts of air). They were not wearing their self-contained breathing apparatuses but put them on later.

The workers attended the employer's medical facility, where they were placed on oxygen therapy for carbon monoxide exposure; they were subsequently treated at hospital.

The employer failed to comply with S 4 of Reg 833 which states that "every employer shall take the measures required by that section to limit the exposure of workers to a hazardous biological or chemical agent."

In the second incident, on December 6, 2018, a worker was working on the coil prep line. The worker was attempting to feed flat stock material into a pair of rollers.

The worker used a control switch with one hand while trying to guide the steel between the two rollers with the other hand. The worker accidentally moved the switch in reverse instead of forward, which resulted in the worker coming into contact with the pinch point of the two rollers. The worker suffered critical injuries.

The employer failed to ensure that "an in-running nip hazard or any part of a machine, device or thing that may endanger the safety of any worker shall be equipped with and guarded by a guard or other device that prevents access to the pinch point."

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## Safetyscope Continuing to Maintaining Registration as an OWWCO Training Provider

These courses meet the criteria in subsection 29(4) of O.Reg. 128, Certification of Drinking Water System Operators and Water Quality Analysts. On Completion of training all participants will receive a certificate of completion with corresponding CEU Value.

1. Working at Heights	.7 CEU
2. WHMIS 2015	.4 CEU
3. TDG	.4 CEU
4. Working in Confined Spaces Rescue Level	2.8 CEU
5. Confined Spaces Attendant Non Entry	1.3 CEU
6. Confined Spaces Advanced Awareness	.7 CEU
7. Confined Spaces Attendant Refresher	.7 CEU
8. Confined Spaces Rescue Refresher	.7 CEU
9. Standard First Aid	1.4 CEU
10. Self Contained Breathing Apparatus	.4 CEU
11. Spill Response	.7 CEU
12. Trenching Hazards	.4 CEU



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