

Supreme Court Decision - City of Greater Sudbury

The Supreme Court of Canada published its long-awaited decision on November 10th, in the case involving the City of Greater Sudbury which may have a significant impact as to how Health and Safety is managed on projects. The ruling effectively changes the established concept and framework between the liabilities of “owners”, “employers”, and “constructors” on project sites. [Click for more information on the Ruling.](#)



- A grader operated by a paving contractor hired by the City struck and killed a pedestrian in September 2015. Not unexpectedly, the contractor was charged and prosecuted as the “constructor”. The City was charged as an “employer” at that time even though they had limited involvement on the project site with only occasional visits by the City's contract compliance inspector.
- The Provincial Offences Court judge acquitted Sudbury, concluding that it was not an “employer” in respect of the project, and notwithstanding, it had acted with due diligence. The MLITSD appealed to the Provincial Offences Appeal Court, which upheld the decision. The MLITSD then appealed to the Provincial Court of Appeal, which overturned the decision of the Provincial Offences judge, finding that the City was an “employer”.
- The City appealed to the Supreme Court of Canada, and their decision was a rejection of the appeal and found that the City was an “employer” in relation to the project, and hence, rightly charged and prosecuted by the MLITSD.

The city considered itself the “owner” of the project which is why they sent quality control inspectors to the project site to oversee the contractors compliance, but denied that it was an employer, arguing that it lacked control over the repair work and had delegated control to the contractor..

On a project hiring a constructor or contractor does not protect the employer/owner from being charged under the OHSA. Employers/owners must implement a contractor safety management program, including a significant role for an independent safety consultant. Have the program reviewed by a lawyer, that’s not your area of expertise. Your program needs to:

- Ensure that all contractors are verified for H&S competencies and a performance history
- Have processes in place to investigate and remedy unsafe or non-compliant conditions on the job site.
- Hold all parties accountable.

Employers/owners must have consistent supervision, and inspection of the work operations and safety performance of all contractors on a job site - whether a "construction project" or not.

Falling Object Hazards

At the end of last year the MLITSD identified causes of critical injuries on construction sites. They have addressed the falls from heights with there revisions in the working at heights standard by focusing more on ladders and knowledge of calculations for fall arrest.

That said the 15% of critical injuries caused by equipment and materials striking those below is only addressed in section 34 of Regulation 213, which mandates the provision of overhead protection when there is a risk of materials falling onto workers.”

To address this gap many stakeholders are educating workers on dropped object prevention strategies such as tool tethering rather than being reactionary.

We need to eliminate the hazard and stop the objects from falling in the first place.

Whether this is tethering lighter objects to a tool belt or hoisting heavier objects this needs to be an integral part of your safety program.

CAUSES OF CRITICAL INJURIES ON CONSTRUCTION SITES



Source: Ontario's Ministry of Labour, Immigration, Training and Skills Development, 2022

Court Bulletins

Review the bulletin below and click on the link to know more if this hazard could occur in your workplace.



[Nov 21—Eye Injury - Humphrey Fleet Service Inc., Fined \\$55,000](#)

A worker was removing and replacing a rear light assembly on a customer's trailer in one of the Humphrey Fleet Service Inc. repair bays. While replacing the silicone seal using a grinder, a piece of the wire was ejected from the wheel head, injuring the worker. The employer failed to ensure that the worker was wearing eye protection appropriate in the circumstances, as per S 81 of Reg 851, and contrary to S 25(1)(c) of the OHSA.

[Nov 17 - Guarding Critical Injury - Peel Meat Packers Ltd., Fined \\$60,000](#)

In a holding barn, a steer ran through a gate with a broken latch and ran through the human aisle causing a critical injury. The employer failed to ensure that the equipment, materials and protective devices provided by them are maintained in good condition in violation of S 25(1)(b) of the OHSA.

[Nov 16 - Fatality - Impala Canada Ltd Fined \\$430,000](#)

A worker was fatally injured when blasted ore saturated with concrete and water overwhelmed protective barriers at the base of a mining shaft used to transfer ore and mining waste from the Lac Des Iles Mine.

The employer failed to develop and maintain a written water management program” and “...the program shall include measures and procedures to...prevent unwanted or uncontrolled flows of water in all areas of the mine,” including ore passes. This was a violation of S 87.1(2)(c) of Reg 854 and contrary to S 25(1)(c) of the OHSA.

[Nov 15 - MEWP Critical Injury - Impala Canada Ltd Fined \\$50,000](#)

A worker suffered critical injuries after falling from a scissor lift work platform while installing a silencer on a fan in the Lac Des Iles Mine's ventilation system. The worker had been trained on the use of the scissor lift and the installation of underground ventilation equipment during their basic underground common core training program and was an experienced worker, who had worked with scissor lifts and performed the fan installation task many times prior.

S 46(3) of Regulation 854 requires that “every walkway and every working platform more than 1.5m above the ground shall be provided with...a handrail not less than 0.91m or more than 1.07m above the floor of the walk or platform.” At the time, the guardrails on the scissor lift platform had been removed to load equipment and not replaced. The employer failed to ensure that the measures and procedures prescribed by the regulation were carried out in the workplace, contrary to section 25(1)(c) of the OHSA

[Nov 2 - Fatality - GTA Granite and Marble Countertops Inc. Fined \\$100,000](#)

A worker and a company director went to the back of the company's workplace yard to retrieve a slab of granite that was stored on a wooden A-frame rack, which contained four slabs of granite, two on each side of the rack, weighing about 1,100 pounds each. This task required the use of a forklift equipped with a boom attachment with a suspended slab gripper and involved several steps. They had positioned and separated the slab of marble and the worker was to attach the slab gripper while management went to the forklift to engage the gripper and to prepare for the lift.

A worker had stepped up onto the base of the A-frame, on the front of the slab to reach and position the slab gripper and was fatally injured when they were struck by a slab of granite that tipped over while it was being removed from a storage rack.

The employer failed to ensure the stone slab was removed from the rack in a manner that would not endanger the safety of any worker as per S 45(c) Regulation 851 and also failed ensure that these measures and procedures were carried out in the workplace, contrary to S 25(1)(c) of the OHSA.

Reporting Workplace Incidents and Illnesses

If you are an employer or constructor in a workplace covered by the Occupational Health and Safety Act (OHSA) you may need to report to the Ministry of Labour, Immigration, Training and Skills Development if there has been a workplace incident or illness, including those resulting in: a fatality, occupational injury or occupational illness.

If someone is killed or critically injured

If someone is killed or critically injured at the workplace, as the employer or the constructor (if the workplace is a construction project) you must immediately notify:

- the MLITSD Health and Safety Contact Centre at [1-877-202-0008](tel:1-877-202-0008) (operates 24/7)
- the JHSC or H&S representative
- the union (if there is one)

As the employer, you must provide a [written report](#) within 48 hours to the MLITSD about the incident. Reg. 420/21 sets out specific information that must be included in the written report using the [on line PDF](#).

If a person is injured and unable to do their usual work or requires medical attention

The employer, must submit a written notification if a person is injured and unable to do their usual work or requires medical attention because of an accident, explosion, fire or incident of workplace violence to the:

- the JHSC or H&S representative
- the union (if there is one)

The written notification must be given within four days of the incident. You don't need to submit it to the ministry unless an inspector requires it.

If a worker has an occupational illness

The employer must submit a written notice if they are advised that a worker (current or former) either:

- has an occupational illness
- has filed a claim for an occupational illness with the Workplace Safety and Insurance Board

The written notice must be provided within four days of being advised, to:

- the MLITSD
- the JHSC or H&S representative
- the union (if there is one)

If there is an incident at a construction site, mine, or diving operation or an incident related to X-ray safety

Even if no one is injured, the employer or constructor may be required to submit a written notice within two days after the incident if there has been an incident at a:

- construction project
- mine or mining plant
- diving operation
- workplace subject to Regulation 861 (X-ray Safety)

Submit the written notice to:

- the MLITSD
- the JHSC or H&S representative
- the union (if there is one)

Written Report

You can submit a written report or notice using the [online form](#) on the central Forms Repository or create and submit your own written report or notice. Note that O. Reg. 420/21 sets out specific information that must be included for certain incidents. The online form allows you to submit the legally required information. If making your own report or notice please refer to the regulation.

It's Official - Corporation Fines Increased

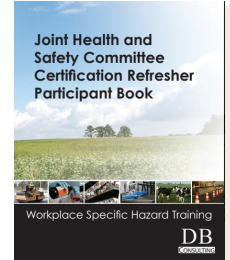
Last month we stated that Bill 79, Working for Workers Act, which was to amend the maximum fine for a corporation had pass third reading on September 26th.

We now confirming that it received Royal Assent and is now law. The online OHS Act now reflects this change. The maximum fine for a corporation for a conviction under the Act increased from \$1,500,000 to \$2,000,000

Joint Health and Safety Training (In Class and Distance Learning)

Safetyscope can help with:

- In Class sessions for DBC Inc. JHSC Part 1, Part 2 and Refresher Training
- Distance Learning (Virtual) Refresher training utilizing DBC Inc. approved training



Safetyscope is an approved provider

We have continued to expand our scope and now Safetyscope is an approved provider for the following:

- Toronto Water for Working at Heights
- Safetyscope is a TSSA Approved Training Provider
- Safetyscope is an approved provider for Corrections Canada



Online Training with InFuse

Safetyscope has partnered with InFuse Compliance Systems to offer a full turn-key Health & Safety solution that includes a robust suite of Online Training. For more information [Click Here](#)



Safetyscope's Public Training Sessions

With our COVID-19 procedures in place, Safetyscope is now holding regular public training sessions in Working at Heights, Working at Heights Refresher and Confined Space Awareness.

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 Entrant	.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



SAFETYSCOPE



2023 SCHEDULE

1 Day Entrant & 2 Day Attendant Course

Time: 8:00 am – 4:00 pm

January	16 - 17
February	13 - 14
March	20 - 21
April	17 - 18
May	15 - 16
June	19 - 20
July	17 - 18
August	14 - 15
September	11 - 12
October	16 - 17
November	13 - 14
December	11 - 12



Competent Supervisor 1 Day Course

Time: 8:00 am – 4:00 pm

February 28
April 27
June 29
August 31
October 26



Day 1 - Emergency Level/Recertification Day 2 - Standard First Aid Level C

Time: 8:00 am – 4:00 pm

February	6 - 7
May	8 - 9
August	8 - 9
November	6 - 7



Working At Heights 1 Day Course

Time: 8:00 am – 4:00 pm

January	13 & 27
February	10 & 24
March	10 & 24
April	14 & 28
May	12 & 26
June	9 & 23
July	7 & 21
August	4 & 18
September	1, 15 & 29
October	13 & 27
November	10 & 24
December	8



Working At Heights Refresher 1/2 Day Course

Time: 8:00 am – 4:00 pm

January	6 & 20
February	3 & 17
March	3 & 31
April	21
May	5 & 19
June	2, 16 & 30
July	14 & 28
August	11 & 25
September	8 & 22
October	6 & 20
November	3 & 17
December	1 & 15



JHSC Part 1 Certification Dwight Barratt Inc. - 3 Day Course

Time: 8:00 am – 4:00 pm

March	27 - 29
August	28 - 30
November	27 - 29

Part 2 and Refresher also available



Confined Space Rescue 4 Day Course

Time: 8:00 am – 4:00 pm

May 29 - June 1
December 18 - 21



Course held at the SafetyScope Training Centre
2501 Rutherford Road Unit 22 Vaughan, Ontario L4K 2N6
Phone: 416.231.3752 E-mail: info@safetyscope.net

2022 Calendar Year