
NEW ONTARIO MANDATORY HEALTH AND SAFETY AWARENESS TRAINING

*By Barry W. Kwasniewski**

A. INTRODUCTION

The Government of Ontario has introduced a new regulatory requirement to ensure that workers receive proper health and safety training in the workplace. Subject only to a few exemptions, all workers and supervisors in Ontario must complete basic occupational health and safety awareness training programs by July 1, 2014. The mandatory training applies to most charities and not-for-profits in Ontario.¹ This Bulletin will discuss the new health and safety training program and the actions that charities and not-for-profits will need to take in order to comply with this new workplace requirement.

B. WHO MUST COMPLETE THE TRAINING

As of July 1, 2014, the Ontario Ministry of Labour will require and enforce mandatory health and safety awareness training for all workers and supervisors in workplaces that are covered under the Ontario *Occupational Health and Safety Act*² (“*OHSA*”). The *OHSA* covers most workers, supervisors, employers and workplaces in Ontario, but does not cover volunteers.³ The training is intended to enhance workers’ and supervisors’ understanding about their rights and responsibilities under the *OHSA* and the issues of

* Barry W. Kwasniewski, B.B.A., LL.B., practices employment and risk management law with Carters’ Ottawa office and would like to thank Dianne T. Hajdasz, B.Sc. (Hons.), B.Ed., J.D., Student-At-Law, for her assistance in the preparation of this *Bulletin*.

¹ Organizations that are covered by the *Canada Labour Code* (R.S.C., 1985, cL-2) are not subject to the *OHSA*.

² *Occupational Health and Safety Act*, R.S.O. 1990, cO.1, online at: http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_90o01_e.htm

³ Part I: Application, Ministry of Labour, online at: http://www.labour.gov.on.ca/english/hs/pubs/ohsa/ohsag_part1.php

workplace health and safety. The training requirements are set out in the Occupational Health and Safety Awareness and Training⁴ regulation (“Regulation”) under the *OHS*A.

There are two types of training: one type is specifically for workers and the other is designed for supervisors. The *OHS*A section (1) defines a “worker” as “person who performs work or supplies services for monetary compensation but does not include an inmate of a correctional institution or like institution or facility who participates inside the institution or facility in a work project or rehabilitation program”; and a “supervisor” as “a person who has charge of a workplace or authority over a worker”. However, if the worker or supervisor completed a basic occupational health and safety training program in the past and can provide his or her employer with proof of that training; and the employer can verify that the previous training covers the required topics under the Regulation, additional training under the Regulation will not be required. If employers want to rely on that exemption they will need to carefully assess the previous training received by their workers and supervisors to determine if that training is sufficient. Therefore, for those workers and supervisors who are not exempted, they must complete the training programs, as discussed below.

C. TRAINING PROGRAM REQUIREMENTS

The training program for workers must include training about the following topics:⁵

- 1) The duties and rights of workers under the *OHS*A;
- 2) The duties of employers and supervisors under the *OHS*A;
- 3) The roles of health and safety representatives and joint health and safety committees under the *OHS*A;
- 4) The roles of the Ministry of Labour, the Workplace Safety and Insurance Board (“WSIB”) and the other entities discussed in section 22.5 of the *OHS*A which address occupational health and safety;
- 5) Workplace hazards;
- 6) The requirements set out in *OHS*A Regulation 860 - the Workplace Hazardous Materials Information System - concerning information and instruction on controlled products; and

⁴ Occupational Health and Safety Awareness and Training, Ontario Regulation 297/13, online at: http://www.e-laws.gov.on.ca/html/source/regs/english/2013/elaws_src_regs_r13297_e.htm

⁵ *Supra* note 3 at s.1(3).

- 7) Occupational illness. “Occupational illness” is defined in section 1 of the *OHSA* as “a condition that results from exposure in a workplace to a physical, chemical or biological agent to the extent that the normal physiological mechanisms are affected and the health of the worker is impaired thereby and includes an occupational disease for which a worker is entitled to benefits under the *Workplace Safety and Insurance Act, 1997*”.

The training program for supervisors must include training about the following topics:⁶

- 1) The duties and rights of workers under the *OHSA*;
- 2) The duties of employers and supervisors under the *OHSA*;
- 3) The roles of health and safety representatives and joint health and safety committees under the *OHSA*;
- 4) The roles of the Ministry of Labour, the WSIB and the other entities discussed in section 22.5 of the *OHSA* which address occupational health and safety;
- 5) The ways to recognize, assess and control workplace hazards, and to evaluate those controls; and
- 6) Sources of information on occupational health and safety.

Employers may, but are not obligated, to use the training products that are provided by the Ontario Ministry of Labour and are accessible on the Ministry’s website.⁷ The Ministry’s training resources and tools include free workbooks accompanied by employer guides and free electronic training tools that are accessible online to help employers comply with the new regulatory requirements. If employers chose to use their own training resources, they must ensure that their training resources cover the required topics as specified in the Regulation.

D. TRAINING TIME LIMITS

Beginning July 1, 2014, the training programs will be mandatory for all those workers and supervisors that are not exempted. After July 1, 2014, employers must ensure that the training programs for workers are

⁶ *Supra* note 3 at s.2(3).

⁷ To access the Ministry of Labour’s training resources and tools, and additional information about the new Regulation, see online at: <http://www.labour.gov.on.ca/english/hs/training/index.php>

completed “as soon as practical”;⁸ and that the training programs for supervisors are completed “within one week of performing work as a supervisor”.⁹ The “work as a supervisor” would commence when an individual’s work in the workplace meets the definition of “supervisor” under the *OHSA*. The training program for supervisors also applies to individuals who work as supervisors temporarily or infrequently, such as when a manager is absent from the office, and owners who also take on the role of supervising the organization’s workers.¹⁰ Therefore, it is important that this training be considered as a priority matter for both new and existing workers and supervisors.

E. PROOF OF TRAINING

Employers are required under the Regulation to keep records of completed occupational health and safety awareness training by workers and supervisors, and records of those employees that are exempt from the training. Employers are not required to submit the records to the Ministry of Labour, but must retain the records because the Ministry of Labour may request the records during an investigation or inspection. It is recommended by the Ministry of Labour that employers keep the records for at least six months after the end of employment, as workers and supervisors can request from the employer written proof of their completion or exemption of the training within six months of leaving the workplace.¹¹

F. ADDITIONAL TRAINING

It is important to note that employers must not only ensure that their employees complete this new basic occupational health and safety awareness training, but employers must also continue to provide further occupational health and safety training, such as to provide “information, instruction and supervision to a worker to protect the health or safety of the worker”¹² and to “acquaint a worker or a person in authority over a worker with any hazard in the work and in the handling, storage, use, disposal and transport of any article, device, equipment or a biological, chemical or physical agent”¹³.

⁸ *Supra* note 3 at s.1(1).

⁹ *Supra* note 3 at s.2(1).

¹⁰ Supervisor Awareness Training Program, Ministry of Labour, see online at: http://www.labour.gov.on.ca/english/hs/pubs/training_guide/supervisor.php

¹¹ For more information about the records of the awareness training, see online at: http://www.labour.gov.on.ca/english/hs/pubs/training_guide/records.php

¹² *Supra* note 2 at s.25(2)(a).

¹³ *Supra* note 2 at s.25(2)(d).

G. CONCLUSION

Charities and not-for-profits should be planning now to ensure that all workers and supervisors complete the mandatory basic occupational health and safety awareness training. These organizations also will need to develop and implement a process for documenting compliance with the Regulation in the event of a Ministry of Labour inspection. Employers should allocate a time when the training programs are to be completed. According to the information on the Ministry of Labour website, the training modules should take approximately one hour to complete. Therefore, while the obligations imposed by the Regulation may appear to be onerous, compliance with relatively minimal effort and planning is achievable. Finally, as this training is mandatory, the failure to implement an appropriate training program will expose the organization, and possibly its directors, officers and managers, pursuant to Part IX (Offences and Penalties) of the *OHSA*, to the potentially significant fines and penalties under the *OHSA*.