**Joint health and safety committee**

**Application**

**9**(1) Subject to subsection (3), this section does not apply,

(a) to a constructor at a project at which work is expected to last less than three months; or

(b) to a prescribed employer or workplace or class of employers or workplaces.  R.S.O. 1990, c. O.1, s. 9 (1).

**Joint health and safety committee**

(2) A joint health and safety committee is required,

(a) at a workplace at which twenty or more workers are regularly employed;

(b) at a workplace with respect to which an order to an employer is in effect under section 33; or

(c) at a workplace, other than a construction project where fewer than twenty workers are regularly employed, with respect to which a regulation concerning designated substances applies.  R.S.O. 1990, c. O.1, s. 9 (2).

**Minister’s order**

(3) Despite subsections (1) and (2), the Minister may, by order in writing, require a constructor or an employer to establish and maintain one or more joint health and safety committees for a workplace or a part thereof, and may, in such order, provide for the composition, practice and procedure of any committee so established.  R.S.O. 1990, c. O.1, s. 9 (3).

**Same**

(3.1) Despite subsections (1) and (2), the Minister may, by order in writing, permit a constructor or an employer to establish and maintain one joint health and safety committee for more than one workplace or parts thereof, and may, in the order, provide for the composition, practice and procedure of any committee so established.  1994, c. 27, s. 120 (1).

**Same**

(3.2) In an order under subsection (3.1), the Minister may,

(a) provide that the members of a committee who represent workers may designate a worker at a workplace who is not a member of the committee to inspect the physical condition of the workplace under subsection 9 (23) and to exercise a committee member’s rights and responsibilities under clause 43 (4) (a) and subsections 43 (7), (11) and (12); and

(b) require the employer to provide training to the worker to enable the worker to adequately perform the tasks or exercise the rights and responsibilities delegated by the committee.  2001, c. 9, Sched. I, s. 3 (3).

**Same**

(3.3) If a worker is designated under clause (3.2) (a), the following apply:

1. The designated worker shall comply with this section as if the worker were a committee member while exercising a committee member’s rights and responsibilities.

2. Subsections 9 (35) and 43 (13), section 55, clauses 62 (5) (a) and (b) and subsection 65 (1) apply to the designated worker as if the worker were a committee member while the worker exercises a committee member’s rights and responsibilities.

3. The worker does not become a member of the committee as a result of the designation.  2001, c. 9, Sched. I, s. 3 (3).

**Establishment of committee**

(4) The constructor or employer shall cause a joint health and safety committee to be established and maintained at the workplace unless the Minister is satisfied that a committee of like nature or an arrangement, program or system in which the workers participate was, on the 1st day of October, 1979, established and maintained pursuant to a collective agreement or other agreement or arrangement and that such committee, arrangement, program or system provides benefits for the health and safety of the workers equal to, or greater than, the benefits to be derived under a committee established under this section.  R.S.O. 1990, c. O.1, s. 9 (4); 1993, c. 27, Sched.

**What Minister shall consider**

(5) In exercising the power conferred by subsection (3) or (3.1), the Minister shall consider,

(a) the nature of the work being done;

(b) the request of a constructor, an employer, a group of the workers or the trade union or trade unions representing the workers in a workplace;

(c) the frequency of illness or injury in the workplace or in the industry of which the constructor or employer is a part;

(d) the existence of health and safety programs and procedures in the workplace and the effectiveness thereof; and

(e) such other matters as the Minister considers advisable.  R.S.O. 1990, c. O.1, s. 9 (5); 1994, c. 27, s. 120 (2).

**Composition of committee**

(6) A committee shall consist of,

(a) at least two persons, for a workplace where fewer than fifty workers are regularly employed; or

(b) at least four persons or such greater number of people as may be prescribed, for a workplace where fifty or more workers are regularly employed.  R.S.O. 1990, c. O.1, s. 9 (6).

**Idem**

(7) At least half the members of a committee shall be workers employed at the workplace who do not exercise managerial functions.  R.S.O. 1990, c. O.1, s. 9 (7).

**Selection of members**

(8) The members of a committee who represent workers shall be selected by the workers they are to represent or, if a trade union or unions represent the workers, by the trade union or unions.  R.S.O. 1990, c. O.1, s. 9 (8).

**Idem**

(9) The constructor or employer shall select the remaining members of a committee from among persons who exercise managerial functions for the constructor or employer and, to the extent possible, who do so at the workplace.  R.S.O. 1990, c. O.1, s. 9 (9).

**Requirement for committee membership**

(10) A member of the committee who ceases to be employed at the workplace ceases to be a member of the committee.  R.S.O. 1990, c. O.1, s. 9 (10).

**Committee to be co-chaired**

(11) Two of the members of a committee shall co-chair the committee, one of whom shall be selected by the members who represent workers and the other of whom shall be selected by the members who exercise managerial functions.  R.S.O. 1990, c. O.1, s. 9 (11).

**Certification requirement**

(12) Unless otherwise prescribed, a constructor or employer shall ensure that at least one member of the committee representing the constructor or employer and at least one member representing workers are certified members.  R.S.O. 1990, c. O.1, s. 9 (12).

**Idem**

(13) Subsection (12) does not apply with respect to a project where fewer than fifty workers are regularly employed or that is expected to last less than three months.  R.S.O. 1990, c. O.1, s. 9 (13).

**Designation of member to be certified**

(14) If no member representing workers is a certified member, the workers or the trade unions who selected the members representing workers shall select from among them one or more who are to become certified.  R.S.O. 1990, c. O.1, s. 9 (14).

**Designation of certified members**

(15) If there is more than one certified member representing workers, the workers or the trade unions who selected the members representing workers shall designate one or more certified members who then become solely entitled to exercise the rights and required to perform the duties under this Act of a certified member representing workers.  R.S.O. 1990, c. O.1, s. 9 (15).

**Idem**

(16) If there is more than one certified member representing the constructor or employer, the constructor or employer shall designate one or more of them who then become solely entitled to exercise the rights and required to perform the duties under this Act of a certified member representing a constructor or an employer.  R.S.O. 1990, c. O.1, s. 9 (16).

**Replacement of certified member**

(17) If a certified member resigns or is unable to act, the constructor or employer shall, within a reasonable time, take all steps necessary to ensure that the requirement set out in subsection (12) is met.  R.S.O. 1990, c. O.1, s. 9 (17).

**Powers of committee**

(18) It is the function of a committee and it has power to,

(a) identify situations that may be a source of danger or hazard to workers;

(b) make recommendations to the constructor or employer and the workers for the improvement of the health and safety of workers;

(c) recommend to the constructor or employer and the workers the establishment, maintenance and monitoring of programs, measures and procedures respecting the health or safety of workers;

(d) obtain information from the constructor or employer respecting,

(i) the identification of potential or existing hazards of materials, processes or equipment, and

(ii) health and safety experience and work practices and standards in similar or other industries of which the constructor or employer has knowledge;

(e) obtain information from the constructor or employer concerning the conducting or taking of tests of any equipment, machine, device, article, thing, material or biological, chemical or physical agent in or about a workplace for the purpose of occupational health and safety; and

(f) be consulted about, and have a designated member representing workers be 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.  R.S.O. 1990, c. O.1, s. 9 (18).

**Idem**

(19) The members of the committee who represent workers shall designate one of them who is entitled to be present at the beginning of testing described in clause (18) (f).  R.S.O. 1990, c. O.1, s. 9 (19).

**Powers of co-chairs**

(19.1) If the committee has failed to reach consensus about making recommendations under subsection (18) after attempting in good faith to do so, either co-chair of the committee has the power to make written recommendations to the constructor or employer.  2011, c. 11, s. 7 (1).

**Response to recommendations**

(20) A constructor or employer who receives written recommendations from a committee or co-chair shall respond in writing within twenty-one days.  R.S.O. 1990, c. O.1, s. 9 (20); 2011, c. 11, s. 7 (2).

**Idem**

(21) A response of a constructor or employer under subsection (20) shall contain a timetable for implementing the recommendations the constructor or employer agrees with and give reasons why the constructor or employer disagrees with any recommendations that the constructor or employer does not accept.  R.S.O. 1990, c. O.1, s. 9 (21).

**Minutes of proceedings**

(22) A committee shall maintain and keep minutes of its proceedings and make the same available for examination and review by an inspector.  R.S.O. 1990, c. O.1, s. 9 (22).

**Inspections**

(23) Subject to subsection (24), the members of a committee who represent workers shall designate a member representing workers to inspect the physical condition of the workplace.  R.S.O. 1990, c. O.1, s. 9 (23).

**Idem**

(24) If possible, the member designated under subsection (23) shall be a certified member.  R.S.O. 1990, c. O.1, s. 9 (24).

**Idem**

(25) The members of a committee are not required to designate the same member to perform all inspections or to perform all of a particular inspection.  R.S.O. 1990, c. O.1, s. 9 (25).

**Idem**

(26) Unless otherwise required by the regulations or by an order by an inspector, a member designated under subsection (23) shall inspect the physical condition of the workplace at least once a month.  R.S.O. 1990, c. O.1, s. 9 (26).

**Idem**

(27) If it is not practical to inspect the workplace at least once a month, the member designated under subsection (23) shall inspect the physical condition of the workplace at least once a year, inspecting at least a part of the workplace in each month.  R.S.O. 1990, c. O.1, s. 9 (27).

**Schedule of inspections**

(28) The inspection required by subsection (27) shall be undertaken in accordance with a schedule established by the committee.  R.S.O. 1990, c. O.1, s. 9 (28).

**Inspections**

(29) The constructor, employer and the workers shall provide a member designated under subsection (23) with such information and assistance as the member may require for the purpose of carrying out an inspection of the workplace.  R.S.O. 1990, c. O.1, s. 9 (29).

**Information reported to the committee**

(30) The member shall inform the committee of situations that may be a source of danger or hazard to workers and the committee shall consider such information within a reasonable period of time.  R.S.O. 1990, c. O.1, s. 9 (30).

**Idem**

(31) The members of a committee who represent workers shall designate one or more such members to investigate cases where a worker is killed or critically injured at a workplace from any cause and one of those members may, subject to subsection 51 (2), inspect the place where the accident occurred and any machine, device or thing, and shall report his or her findings to a Director and to the committee.  R.S.O. 1990, c. O.1, s. 9 (31).

**Posting of names and work locations**

(32) A constructor or an employer required to establish a committee under this section shall post and keep posted at the workplace the names and work locations of the committee members in a conspicuous place or places where they are most likely to come to the attention of the workers.  R.S.O. 1990, c. O.1, s. 9 (32).

**Meetings**

(33) A committee shall meet at least once every three months at the workplace and may be required to meet by order of the Minister.  R.S.O. 1990, c. O.1, s. 9 (33).

**Entitlement to time from work**

(34) A member of a committee is entitled to,

(a) one hour or such longer period of time as the committee determines is necessary to prepare for each committee meeting;

(b) such time as is necessary to attend meetings of the committee; and

(c) such time as is necessary to carry out the member’s duties under subsections (26), (27) and (31).  R.S.O. 1990, c. O.1, s. 9 (34).

**Entitlement to be paid**

(35) A member of a committee shall be deemed to be at work during the times described in subsection (34) and the member’s employer shall pay the member for those times at the member’s regular or premium rate as may be proper.  R.S.O. 1990, c. O.1, s. 9 (35).

**Idem**

(36) A member of a committee shall be deemed to be at work while the member is fulfilling the requirements for becoming a certified member and the member’s employer shall pay the member for the time spent at the member’s regular or premium rate as may be proper.  R.S.O. 1990, c. O.1, s. 9 (36); 1998, c. 8, s. 50 (1); 2011, c. 11, s. 7 (3).

**Exception**

(37) Subsection (36) does not apply with respect to workers who are paid by the Workplace Safety and Insurance Board for the time spent fulfilling the requirements for becoming certified.  R.S.O. 1990, c. O.1, s. 9 (37); 1998, c. 8, s. 50 (2).

**Additional powers of certain committees**

(38) Any committee of a like nature to a committee established under this section in existence in a workplace under the provisions of a collective agreement or other agreement or arrangement between a constructor or an employer and the workers has, in addition to its functions and powers under the provisions of the collective agreement or other agreement or arrangement, the functions and powers conferred upon a committee by this section.  R.S.O. 1990, c. O.1, s. 9 (38).

**Dispute resolution**

(39) Where a dispute arises as to the application of subsection (2), or the compliance or purported compliance therewith by a constructor or an employer, the dispute shall be decided by the Minister after consulting the constructor or the employer and the workers or the trade union or trade unions representing the workers.  R.S.O. 1990, c. O.1, s. 9 (39).