



## Procedure

Saskatoon & Area - Occupational Health & Safety

**Number:** 15-005

**Title:** Legislative Responsibilities: Labour Relations & Workplace Safety Enforcement

**Saskatchewan Employment Act:** 3-30, 3-38-3-46, 3-53, 3-56, 4-4(5), 4-8

**OHS Regulation:**

**Date:** November 16, 2018

**Date Revised/Reaffirmed:**

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### Purpose

The purpose of this procedure is to establish SHA's role in the processes of Labour Relations and Workplace Safety (LRWS) enforcement

### Officer's Report

An Officer's report is a report or communication with detailed information related to the health and safety of workers. The Occupational Health Officer (OHO) will provide a copy of the report or communication to a representative of the area the work is conducted such as the director, manager or supervisor and the Occupational Health Committee (OHC).

### Procedure:

- Within a 24 hour period of receiving the Officer report, a copy must be:
  - posted on the Occupational Health Committee communications board
  - posted in the department or area to which the report refers
  - send to the OHS Regional Manager: email [OHSINTAKE@saskatoonhealthregion.ca](mailto:OHSINTAKE@saskatoonhealthregion.ca) or fax: (306) 655-0124
- With the assistance of the site Co-Chairs and the SHA OHS support person, review the Officer report and determine if action items are required in order to ensure compliance with legislation. An Officer report will highlight the areas of interest that the OHO may review at another time.

### Compliance Undertaking

A compliance undertaking is a written agreement, not a warning, where a workplace commits to take steps to comply with OHS legislation by accomplishing specified tasks within a defined time period. When an Occupational Health Officer encounters a workplace that is not complying with OHS legislation, entering a compliance undertaking is one of the actions the Officer may take.

When a workplace enters into a compliance undertaking, a progress report must be submitted to LRWS to demonstrate that they have completed the specified tasks.

Procedure:

- Within a 24 hour period of receiving the agreement, a copy must be:
  - posted on the site Occupational Health Committee communications board
  - posted in the department or area to which the agreement refers
  - send to the OHS Regional Manager: email [OHSINTAKE@saskatoonhealthregion.ca](mailto:OHSINTAKE@saskatoonhealthregion.ca) or fax: (306) 655-0124
- With the assistance of the site Co-Chairs and the SHA OHS support person, review the agreement and determine the action items are required in order to ensure compliance with legislation. Other subject matter experts may be consulted and used as a support and resource.
- Once action items are completed and legislation is met in the required timeline, communicate the information in the progress report
- The deadline for the progress report will be noted in the Compliance Undertaking report
- A copy of the progress report must be:
  - Submitted to LRWS
  - posted on the site Occupational Health Committee communications board
  - posted in the department or area to which the agreement refers
  - send to the OHS Regional Manager: email [OHSINTAKE@saskatoonhealthregion.ca](mailto:OHSINTAKE@saskatoonhealthregion.ca) or fax: (306) 655-0124

**Notice of Contravention**

A notice of contravention is an enforcement tool that Officers use to address non-compliance with the OHS legislation. When an Occupational Health Officer encounters a workplace that is not complying with OHS legislation, a notice of contravention is one of the actions the Officer may take.

In a notice of contravention, Officers will:

- identify the section(s) of the OHS legislation that have been contravened;
- require that corrective action(s) be taken and specify the date by which that action is to be completed;
- require a progress report to be sent to the OHS Division within five business days of the prescribed date for correction and to a workplace OHC or Representative. Where neither a Committee nor a Representative exists at a workplace, the progress report is provided to the workers.

Procedure:

- Within a 24 hour period of receiving the report, a copy must be:
  - posted on the site Occupational Health Committee communications board
  - posted in the department or area to which the report refers
  - send to the OHS Regional Manager: email [OHSINTAKE@saskatoonhealthregion.ca](mailto:OHSINTAKE@saskatoonhealthregion.ca) or fax: (306) 655-0124
- With the assistance of the site Co-Chairs and the SHA OHS support person, review the report and determine the action items are required in order to ensure compliance with legislation. Other subject matter experts may be consulted and used as a support and resource.
- Record the action plan and all information required by the contravention in the progress report, noting all timelines
- The deadline for the progress report will be noted in the Notice of Contravention report
- A copy of the progress report must be:
  - submitted to LRWS
  - posted on the site Occupational Health Committee communications board
  - posted in the department or area to which the report refers

- send to the OHS Regional Manager: email [OHSINTAKE@saskatoonhealthregion.ca](mailto:OHSINTAKE@saskatoonhealthregion.ca) or fax: (306) 655-0124

### **Stop Work Orders**

When an Officer has formed the opinion that there is a breach of the OHS legislation that may involve serious risk to the health and safety of a worker(s), they will direct the cessation of work.

To prevent serious risk situations that could lead to a stop work order at your workplace, familiarize yourself with the examples below of conditions that are considered a serious risk.

The serious risk conditions are:

1. workers being exposed to falls in excess of three metres without appropriate fall protection;
2. the presence of floor or roof openings through which workers could fall;
3. workers working in confined spaces without atmospheric testing or other safety procedures;
4. workers working on equipment or machinery without lockout in place (when such lockout is required);
5. workers working in a trench that has not been cutback or adequately shored;
6. workers handling toxic, carcinogenic, or corrosive chemicals without the appropriate information or precautions in place;
7. workers working in an atmosphere that may pose a threat to health from inhalation of harmful substances without respiratory equipment or other controls; and
8. workers leaving trees partially cut and standing or sit back trees while continuing to work in the area.

Procedure:

- Comply with all the requirements of the stop work order
- Notify the workers affected, the site Co-Chairs, SHA OHS support person
- Provide a copy of the order to:
  - site Occupational Health Committee
  - OHS Regional Manager: email [OHSINTAKE@saskatoonhealthregion.ca](mailto:OHSINTAKE@saskatoonhealthregion.ca) or fax: (306) 655-0124
- With the assistance of the site Co-Chairs and the SHA OHS support person, review the work order and determine the action items are required in order to ensure compliance with legislation. Other subject matter experts may be consulted and used as a support and resource.
- Document all the actions taken in order to eliminate or mitigate the hazard(s) noted in the stop work order, provide this documentation to:
  - be posted on the site Occupational Health Committee communications board
  - posted in the department or area to which the order refers
  - send to the OHS Regional Manager: email [OHSINTAKE@saskatoonhealthregion.ca](mailto:OHSINTAKE@saskatoonhealthregion.ca) or fax: (306) 655-0124

### **Summary Offence Ticketing**

A Summary Offence Ticket (SOT) is a ticket issued by designated Occupational Health Officers for certain occupational health and safety violations. Summary Offence Tickets are similar to speeding tickets. They are issued on the spot or sent by mail depending on the situation and circumstances. Either way, the officer will assess the situation and facts on the ground before issuing a ticket. Everyone who receives a ticket will have the right to challenge the ticket in court.

There are 12 ticketable offences for non-compliance with legislation in the areas of:

- fall protection;
- excavating and trenching;
- personal protective equipment;

- submission of progress reports to the OHS Division; and
- submission of information requested by the Director.

Fines range from \$250 to \$1,000 depending on the offence. Tickets will mainly be directed toward employers, contractors, owners, self-employed persons and suppliers.

There is only one offence that applies to workers - clear failure to use personal protective equipment (PPE) that has been provided by ones employer. Before ticketing a worker, officers will assess if the worker was provided with the correct PPE, received adequate training on its use, and was clearly directed to use the PPE but chose not to.

Summary Offence Tickets will only be issued when all other tools are ineffective in making sure that health and safety in the workplace is not compromised - especially in high risk operations (e.g., trenching).

Officers will assess the severity of the situation and will try to use other tools first, such as Compliance Undertakings, Officer's Reports, Notice of Contraventions and Stop Work Orders. Parties will have ample opportunity to address their health and safety issues before a ticket is issued.

### **Appealing an Officer's Decision**

Appeals of Officers' decisions are made to the Director of the Occupational Health and Safety Division. The Director can conduct appeals internally or choose to forward them to an adjudicator. Certain appeals must be forwarded directly to an adjudicator.

The written notice of appeal must be made to the attention of the:  
Director of Occupational Health and Safety Division  
Ministry of Labour Relations and Workplace Safety  
300 - 1870 Albert Street  
REGINA SK S4P 4W1

**Note:** Mailed notices should be sent by registered or certified mail.

If the Director of the OHS Division conducts the appeal internally, the OHS Division will provide notice of the appeal to the persons who are directly affected by the decision and will provide opportunity for those persons to make written representations about whether the decision should be affirmed, amended or cancelled. The Director is not required to provide an oral hearing.

After conducting an appeal, the Director of the OHS Division will affirm, amend or cancel the original decision and will provide written reasons for the decision. The Director will provide a copy of the decision to all persons who are directly affected by the decision.

### **Appealing the Director's Decision**

The Director's decision can be appealed and heard by an adjudicator. Adjudicators are assigned to specific appeal hearings by the Saskatchewan Labour Relations Board.

Adjudicators may:

- require any party to provide testimony;
- require any party to testify under oath;
- require any party to provide documents relevant to the appeal;
- administer oaths or affirmations;
- decide questions of fact relevant to the appeal and may accept evidence even if it would not be admissible in a regular court;

- conduct any appeal using a means of simultaneous telecommunications; and
- adjourn or postpone the appeal.

The Saskatchewan Labour Relations Board will consult with the adjudicator to set a time, day and place for the appeal or hearing. The adjudicator determines the procedures by which an appeal is conducted. Adjudicators are not bound by the normal rules of evidence law and may accept any evidence they consider appropriate.

If a person who is directly affected by an appeal has been given notice of the appeal, the adjudicator may proceed in their absence. Furthermore, adjudicators, at their discretion, may use simultaneous telecommunications to conduct a proceeding. This allows the process to proceed without everyone in the same physical location.

Each party in an appeal may represent themselves or choose to have someone else represent them during the appeal process. Typically, this could mean an employer representative or a lawyer.

The adjudicator's decision will be based on the evidence presented during the hearings. When the hearings have ended, the adjudicator can choose to accept or dismiss the appeal, or revoke, change or accept the original decision as written.

### **Appealing an Adjudicator's Decision**

If an appeal is pursuant to a question of the law, an adjudicator's decision can be appealed to the Saskatchewan Labour Relations Board. Also, under certain circumstances, the Saskatchewan Labour Board's decision can be appealed to the Saskatchewan Court of Appeal.

For more information about appealing a decision to the Saskatchewan Labour Relations Board, contact the Saskatchewan Labour Relations Board at 306-787-2406 (Regina), or visit their website at [www.sasklabourrelationsboard.com](http://www.sasklabourrelationsboard.com)

### **Non-Compliance/Breach:**

Non-compliance with this procedure will result in a review of the incident. A review for non-compliance may result in disciplinary action, up to and including termination of employment or privileges; fines and /or prosecution of individuals under the Act.

Review Dates:

November 16, 2018