

Legal Issues in Sun Safety for Federal Workplaces in Canada

This fact sheet provides an overview of legal issues in sun safety for federal workplaces in Canada. This covers jurisdiction-specific occupational health and safety (OHS) legislation for both solar UV radiation and heat stress. The focus is on OHS legislation, workers compensation legislation has not been covered. The purpose of the fact sheet is to provide an overview of the OHS laws as they apply to sun safety at the time of writing (August 2016), the purpose is not to provide legal advice or opinion. This jurisdiction-specific information should be read with our fact sheet on *Legal Issues in Sun Safety for Canadian Workplaces* which provides an introduction to legal issues associated with implementing a sun safety program.

The *Canada Labour Code*, RSC 1985, c L-2, applies to workplaces across Canada that are federally regulated. Part II of the Code is concerned with OHS. There is a general duty for employers in section 124 and a number of broad duties of relevance in section 125. Employees also have a general duty. The primary regulation, the *Canada Occupational Health and Safety Regulations*, SOR/86-304 has requirements for the supply of drinking water, and limited requirements for heat stress and non-ionizing radiation.

Key terms in the *Canada Labour Code*:

- employee;
- danger and safety;
- officers are now “officials delegated by the Minister”;
- directions;
- work place committee;
- policy committee; and
- health and safety representatives.

The *Canada Labour Code* has a general duty for employers in section 124 and a number of broad duties of relevance in section 125 regarding training and informing employees of hazards. Employees also have a general duty. Supervisors are considered to be agents of the employer and do not have a separate set of duties.

For larger organizations, 300 or more employees, a policy committee will be involved with the development of a sun safety program. Workplaces with 20 or more employees require a workplace committee which also is involved with a sun safety program. Workplaces with less than 20 employees have a health and safety representative.

Employees have a right to refuse dangerous work. There is a new definition of “danger” since 2014, which limits “dangers” to imminent or serious threats, which are of a greater risk level than ordinary hazards, and which would only apply to sun safety in extreme circumstances.

OHS officers are no longer mentioned expressly in the Code since 2014. “Officer” was replaced with “Minister”. In practice, the Minister is represented by “officials delegated by the Minister”.

Such officials can issue contravention and danger directions.

There are regulation-dependent duties in the Code regarding potable water and temperature levels. The *Canada Occupational Health and Safety Regulations*, SOR/86-304, have detailed requirements for drinking water. The concern for thermal stress appears limited to motorized materials handling equipment. There is a process for hazard assessment in the regulations which could apply to sun safety issues.

Potable Water

9.24 Every employer shall provide potable water for drinking, personal washing and food preparation that meets the standards set out in the Guidelines for Canadian Drinking Water Quality 1978, published by authority of the Minister of National Health and Welfare.

9.25 Where it is necessary to transport water for drinking, personal washing or food preparation, only sanitary portable water containers shall be used.

9.26 Where a portable storage container for drinking water is used,

- (a) the container shall be securely covered and closed;
- (b) the container shall be used only for the purpose of storing potable water;
- (c) the container shall not be stored in a toilet room; and
- (d) the water shall be drawn from the container by
 - (i) a tap,
 - (ii) a ladle used only for the purpose of drawing water from the container, or
 - (iii) any other means that precludes the contamination of the water.

9.27 Except where drinking water is supplied by a drinking fountain, sanitary single-use drinking cups shall be provided.

9.28 Any ice that is added to drinking water or used for the contact refrigeration of foodstuffs shall

- (a) be made from potable water; and
- (b) be so stored and handled as to prevent contamination.

9.29 Where drinking water is supplied by a drinking fountain, the fountain shall meet the standards set out in ARI Standard 1010-82, Standard for Drinking-Fountains and Self-Contained, Mechanically-Refrigerated Drinking-Water Coolers, dated 1982.

Protection from Elements

14.9 (1) Motorized materials handling equipment that is regularly used outdoors shall be fitted with a roof or other structure that will protect the operator from

exposure to any weather condition that is likely to be hazardous to the operator's health or safety.

(2) Where the heat produced by motorized materials handling equipment results in a temperature above 26°C in the compartment or position occupied by that operator, the area shall be protected from the heat by an insulated barrier.

Hazard Investigation

10.4 (1) If there is a likelihood that the health or safety of an employee in a work place is or may be endangered by exposure to a hazardous substance, the employer shall have an investigation performed which must consider, among other issues, whether the level of non-ionizing radiation is likely to exceed 50 per cent of the values referred to in subsection 10.19(1) or the levels referred to in subsections 10.26(3) and (4). However, the latter requirements regarding non-ionizing radiation are aimed at radiation-producing devices.