

Legal Issues in Sun Safety for Workplaces in Manitoba

This fact sheet provides an overview of legal issues in sun safety for workplaces in Manitoba (MB). 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 MB *Workplace Safety and Health Act*, C.C.S.M. c. W210, has a number of relevant general duties for the employer, supervisors, and workers. The workplace health and safety committee will be actively involved in the development of a sun safety program. The primary regulation, *Workplace Safety and Health Regulation*, Man. Reg. 217/2006, has requirements for thermal stress, non-ionizing radiation (UV radiation) and the provision of drinking water.

Key terms in the MB *Workplace Safety and Health Act*:

- worker;
- supervisor;
- workplace;
- workplace health and safety committees;
- workplace health and safety representatives;
- contractor;
- prime contractor;
- "health" means the condition of being sound in body, mind, and spirit, and shall be interpreted in accordance with the objects and purposes of this Act;
- "welfare" means the conditions or facilities, in or near a workplace, provided for the feeding, rest, hygiene, or sanitary requirements of a worker;
- "safety" means the prevention of physical injury to workers and the prevention of physical injury to other persons arising out of or in connection with activities in the workplace; and
- safety and health officer.

The employer's general duty uses the phrase "so far as is reasonably practicable, the safety, health and welfare at work...". The supervisor's general duty says "so far as is reasonably practicable, ... take all precautions necessary to protect the safety and health of a worker under his or her supervision...". The worker's general duty says "take reasonable care to protect his safety and health and the safety and health of other persons who may be affected by his acts or omissions at work...". The prime contractor's general duty says "co-ordinate, organize and oversee the performance of all work at the construction project site and conduct his or her own activities in such a way as to ensure, so far as is reasonably practicable, that no person is exposed to risks to his or her safety or health arising out of, or in connection with activities at

the construction project site". The contractor's general duty says "so far as is reasonably practicable". Self-employed persons also have a general duty. There are other relevant employer duties, particularly duties to train in section 4.

An employer shall establish a written workplace safety and health program for each workplace where 20 or more workers of that employer are regularly employed. The Act sets out a list of the elements that must be in the program.

In section 43 a worker may refuse to work or do particular work at a workplace if he or she believes on reasonable grounds that the work constitutes a danger to his or her safety or health or to the safety or health of another worker or another person.

A committee is required where there are 20 or more workers. Section 40 states that the duties of a committee include participation in the identification of risks to the safety or health of workers or other persons, arising out of or in connection with activities in the workplace; the development and promotion of measures to protect the safety and health and welfare of persons in the workplace, and checking the effectiveness of such measures; the development and promotion of programs for education and information concerning safety and health in the workplace; and the making of recommendations to the employer or prime contractor respecting the safety and health of workers. The representative's duties are similar.

The primary regulation under the MB *Workplace Safety and Health Act* has provisions regarding thermal stress:

Thermal stress

4.12 When a workplace or work process exposes a worker to conditions that may create a risk to the worker's safety or health because of heat or cold, an employer must implement safe work procedures and control measures to ensure that

- (a) the threshold limit values for thermal stress established by the ACGIH in its publication, *Threshold Limit Value for Chemical Substances and Physical Agents and Biological Indices*, are followed; and
- (b) the worker is provided with information, instruction and training in the symptoms of thermal stress and the precautions to be taken to avoid injury from thermal stress.

Skin protection

6.8(1) If there is a risk of injury to a worker's skin from sparks, molten metal or ionizing or non-ionizing radiation, an employer must provide personal protective equipment that

- (a) meets the requirements of CAN/CSA-W117.2-01 (R2006), *Safety in Welding, Cutting and Allied Processes*; and

(b) is appropriate for the risk;
or a safeguard that provides equivalent protection.

Eye and face protectors

6.13(1) An employer must provide a worker an eye or face protector that meets the requirements of CAN/CSA-Z94.3-02, Eye and Face Protectors and CSA Standard Z94.3.1-02, Protective Eyewear: A User's Guide, and that is appropriate for the risk, if there is a risk of irritation or injury to the worker's face or eyes from ...

(c) ultraviolet, visible or infrared radiation; ...

There are specific requirements for drinking water in section 4.6.

Part 18 of the MB *Workplace Safety and Health Act* applies to workplaces where ionizing or non-ionizing radiation is used, which appears to exclude radiation from the sun.