

## **Legal Issues in Sun Safety for Workplaces in Newfoundland and Labrador**

This fact sheet provides an overview of legal issues in sun safety for workplaces in Newfoundland and Labrador. 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 Newfoundland and Labrador *Occupational Health and Safety Act* (NL OHSA), RSNL 1990, c O-3, has a number of relevant general duties for the employer, supervisors, and workers. The occupational health and safety committee will be actively involved in the development of a sun safety program. The primary regulation, *Occupational Health and Safety Regulations, 2012*, NLR 5/12, has further broad duties for employers. The regulation has requirements for skin protection, thermal stress, and the provision of drinking water. Notifiable occupational diseases include diseases caused by heat radiation, ultraviolet radiation extreme temperature (for example, sunstroke), as well as occupational cancer.

Key terms in the NL OHSA:

- uses the term “worker”, not employee;
- “supervisor” is defined;
- “officer” is used, not “inspector”;
- “occupational health and safety committee”;
- an officer can issue an “order”, not a “direction”;
- if there is “imminent risk”, an officer can order work to be stopped;
- “principal contractor” means the person primarily responsible for the carrying out of a project and includes the person who owns the thing in respect of which the project is being carried out;
- “project” is not defined;
- “worker”; and
- “workplace” not “work site”.

The NL OHSA has general duty clauses in sections 4 to 10 for employers, supervisors, workers, self-employed persons, and principal contractors that cover sun hazards. The employer’s general duty uses the phrase “reasonably practicable” (undefined). Supervisors have a similarly worded general duty. A worker has a general duty to take “reasonable care”. There also broad duties to provide instruction and training for hazards in section 5.

Where there are 10 or more workers, the employer must have an OHS program. Where there are less than 10 workers, the employer must have an OHS policy. The requirements for both are

prescribed in the regulations.

A health and safety committee is required if there are 10 or more workers at a workplace. The committee's duties are broad. They go beyond being merely advisory. For example the committee "shall establish and promote health and safety educational programs for workers". Where there are fewer than 10 workers at a workplace, a health and safety representative is required.

A worker has a right to refuse dangerous work.

A "serious injury" includes a burn that requires medical attention. A serious injury does not include injuries to a worker of a nature that may be treated through first aid or medical treatment and the worker is able to return to his or her work either immediately after the treatment or at his or her next scheduled shift. Where an accident takes place at a workplace that results in serious injury to a person or results in the death of a person, the Ministry should be notified.

In the primary regulation under the NL OHSA, "accident" includes "an event occasioned by a physical or natural cause". "Hot work" is defined but it does not include heat from the sun. "Injury" means an injury as a result of a chance event occasioned by a physical or natural cause. It is possible that some extreme effects of heat or radiation exposure might amount to a "serious injury" and thus be reportable.

The regulation contains some broad duties for the employer:

- 14.(2) An employer shall ensure that necessary protective clothing and devices are used for the health and safety of his or her workers;
- (3) The employer shall ensure that safe work procedures are followed at all workplaces; and
- (4) An employer shall ensure, so far as is reasonably practicable, that work procedures promote the safe interaction of workers and their work environment to minimize the potential for injury.

There are further duties for workers in section 17.

In section 18, regular inspections of all "places of employment" shall be made by the employer or his or her representative at intervals to ensure that safe working conditions are maintained and that unsafe conditions found as a result of the inspection are remedied without delay. Owners and contractors have some and relevant duties in section 19. There is a duty to supply drinking water (s.66).

General requirements of limb and body protection

78. Where there is a danger of injury, contamination or infection to a worker's

skin, hands, feet or body, the worker shall wear properly fitting protective equipment appropriate to the work being done and the hazards involved.

#### Thermal environment

44. (1) An employer shall ensure that a thermal environment which is reasonable and consistent with the nature and degree of the work performed, as established by the ACGIH, is provided and maintained in a workplace.

(2) An employer shall provide appropriate and suitable monitoring equipment in a workplace where the thermal environment is likely to pose a hazard to a worker.

(3) Under unusually hot or cold working conditions an employer shall make further provision for the health and safety and reasonable thermal comfort of a worker, which may include:

- (a) regular monitoring, posting of warning devices and additional first aid measures;
- (b) provision of special equipment and clothing;
- (c) provision of screens or shelters;
- (d) medical supervision, hot or cold drinks and acclimatization procedures;
- (e) limited work schedules with rest periods; and
- (f) other appropriate controls and measures.

#### Supply of drinking water

66. An employer shall provide and maintain at suitable points conveniently accessible to all workers, an adequate supply of wholesome drinking water from a public main or other source approved by the appropriate health authority.

#### Passenger compartments

284. An enclosed portion or compartment of a vehicle in which a worker is transported shall be provided with

- (a) effective ventilation, independent of doors, providing clean air;
- (b) adequate lighting and means for heating and cooling; ...

#### Operator protection

305. The operator of a crane or hoist shall be protected against hazardous conditions, including falling or flying objects, swinging, and excessive heat or cold that could adversely affect the health or safety of the operator.

#### Notifiable occupational diseases

9. (1) The occupational diseases for which notification is required under section

60 of the Act shall be those set out in the Schedule.

#### Schedule

List of occupational diseases:

- 1.2 Diseases caused by physical agents
  - 1.2.4 Diseases caused by ionizing radiations
  - 1.2.5 Diseases caused by heat radiation
  - 1.2.6 Diseases caused by ultraviolet radiation
  - 1.2.7 Diseases due to extreme temperature (e.g. sunstroke, frostbite)
- 2.2 Occupational skin diseases
  - 2.2.1 Skin diseases caused by physical, chemical or biological agents not included under other items
- 3. Occupational cancer
  - 3.1 Cancer caused by the following agents:
    - 3.1.15 Cancer caused by any other agents not mentioned in the preceding items 3.1.1 to 3.1.14, where a direct link between the exposure of a worker to this agent and the cancer suffered is established

Visit [sunsafetyatwork.ca](http://sunsafetyatwork.ca) for more information. This fact sheet was correct as of August 2016. Production of this resource has been made possible through financial support from Health Canada through the Canadian Partnership Against Cancer.