



Français	Contact Us	Help	Search	Canada Site
Justice Home	Site Map	Programs and Services	Proactive Disclosure	Laws



L A W S



[Consolidated Statutes and Regulations](#)

Main page on: [Canada Labour Code](#)

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Laws

- ▶ [Main Page](#)
- ▶ [Glossary](#)
- ▶ [Important Note](#)
- ▶ [How to link](#)
- ▶ [Printing Problems?](#)

[\[Previous\]](#)

Easy Links

- ▶ [Constitution](#)
- ▶ [Charter](#)
- ▶ [Statutes by Title](#)
- ▶ [Statutes by Subject](#)

Advanced Search

- ▶ [Templates for advanced searching](#)

Case Law

- ▶ [Federal and Provincial Case Law](#)

Other

Annual Statutes



- ▶ [Table of Public Statutes and Responsible Ministers](#)
- ▶ [Table of Private Acts](#)
- ▶ [Index of Statutory Instruments](#)

**PART II
OCCUPATIONAL HEALTH AND SAFETY**

Interpretation

122. (1) In this Part,

Definitions

"appeals officer"
« *agent d'appel* »

"appeals officer" means a person who is designated as an appeals officer under section 145.1;

"Board" « *Conseil* »

"Board" means the Canada Industrial Relations Board established by section 9;

"collective agreement"
« *convention collective* »

"collective agreement" has the same meaning as in section 166;

"danger" « *danger* »

"danger" means any existing or potential hazard or condition or any current or future activity that could reasonably be expected to cause injury or illness to a person exposed to it before the hazard or condition can be corrected, or the activity altered, whether or not the injury or illness occurs immediately after the exposure to the hazard, condition or activity, and includes any exposure to a hazardous substance that is likely to result in a chronic illness, in disease or in damage to the reproductive system;

"employee"
« *employé* »

"employee" means a person employed by an employer;

"employer"
« *employeur* »

"employer" means a person who employs one or more employees and includes an employers' organization and any person who acts on behalf of an employer;

"hazardous substance"
« *substance dangereuse* »

"hazardous substance" includes a controlled product and a chemical, biological or physical agent that, by reason of a property that the agent possesses, is hazardous to the safety or health of a person exposed to it;

"health and safety officer" « *agent de*

"health and safety officer" means a person who is

<i>santé et de sécurité</i> »	designated as a health and safety officer under section 140;
"health and safety representative" « <i>représentant</i> »	"health and safety representative" means a person who is appointed as a health and safety representative under section 136;
"policy committee" « <i>comité d'orientation</i> »	"policy committee" means a policy health and safety committee established under section 134.1;
"prescribe" « <i>règlement</i> »	"prescribe" means prescribe by regulation of the Governor in Council or determine in accordance with rules prescribed by regulation of the Governor in Council;
"regional health and safety officer" « <i>agent régional de santé et de sécurité</i> »	"regional health and safety officer" means a person who is designated as a regional health and safety officer under section 140;
	"regional safety officer" [Repealed, 2000, c. 20, s. 2]
"safety" « <i>sécurité</i> »	"safety" means protection from danger and hazards arising out of, linked with or occurring in the course of employment;
	"safety and health committee" [Repealed, 2000, c. 20, s. 2]
	"safety and health representative" [Repealed, 2000, c. 20, s. 2]
	"safety officer" [Repealed, 2000, c. 20, s. 2]
"work place" « <i>lieu de travail</i> »	"work place" means any place where an employee is engaged in work for the employee's employer;
"work place committee" « <i>comité local</i> »	"work place committee" means a work place health and safety committee established under section 135.
Idem	(2) In this Part, the expressions "controlled product", "hazard symbol", "Ingredient Disclosure List", "label" and "material safety data sheet" have the same meanings as in the <i>Hazardous Products Act</i> .
Idem	(3) Except where otherwise provided in this Part, all other words and expressions have the same meanings as in Part I.
	R.S., 1985, c. L-2, s. 122; R.S., 1985, c. 9 (1st Supp.), s. 1, c. 24 (3rd Supp.), s. 3; 1993, c. 42, s. 3; 1998, c. 26, s. 55; 2000, c. 20, s. 2.

Purpose of Part

Purpose of Part

122.1 The purpose of this Part is to prevent accidents and injury to health arising out of, linked with or occurring in the course of employment to which this Part applies.

R.S., 1985, c. 9 (1st Supp.), s. 1.

Preventive measures

122.2 Preventive measures should consist first of the elimination of hazards, then the reduction of hazards and

finally, the provision of personal protective equipment, clothing, devices or materials, all with the goal of ensuring the health and safety of employees.

2000, c. 20, s. 3.

Methods of Communication

Rights of employees

122.3 (1) An employee with a special need shall be given any direction, notice, information, instruction or training that is required to be given to employees under this Part by any method of communication that readily permits the employee to receive it, including braille, large print, audio tape, computer disk, sign language and verbal communication.

Meaning of "special need"

(2) For the purposes of this section, an employee has a special need if the employee is affected by a condition that impairs their ability to receive any direction, notice, information, instruction or training given by a method that would otherwise be sufficient under this Part.

2000, c. 20, s. 3.

Application

Application of Part

123. (1) Notwithstanding any other Act of Parliament or any regulations thereunder, this Part applies to and in respect of employment

(a) on or in connection with the operation of any federal work, undertaking or business other than a work, undertaking or business of a local or private nature in Yukon, the Northwest Territories or Nunavut;

(b) by a corporation established to perform any function or duty on behalf of the Government of Canada; and

(c) by a Canadian carrier, as defined in section 2 of the *Telecommunications Act*, that is an agent of Her Majesty in right of a province.

Application to public service of Canada

(2) This Part applies to the public service of Canada and to persons employed in the public service of Canada to the extent provided for under section 11 of the *Financial Administration Act*.

R.S., 1985, c. L-2, s. 123; R.S., 1985, c. 9 (1st Supp.), s. 2; 1993, c. 28, s. 78, c. 38, s. 89; 2000, c. 20, s. 4; 2002, c. 7, s. 97(E).

123.1 [Repealed, 1996, c. 12, s. 2]

Duties of Employers

General duty of employer

124. Every employer shall ensure that the health and safety at work of every person employed by the employer is protected.

R.S., 1985, c. L-2, s. 124; R.S., 1985, c. 9 (1st Supp.), s. 4; 2000, c. 20, s. 5.

Specific duties of employer

125. (1) Without restricting the generality of section 124, every employer shall, in respect of every work place controlled by the employer and, in respect of every work activity carried out by an employee in a work place that is not controlled by the employer, to the extent that the employer controls the activity,

(a) ensure that all permanent and temporary buildings and structures meet the prescribed standards;

(b) install guards, guard-rails, barricades and fences in accordance with prescribed standards;

(c) investigate, record and report in the manner and to the authorities as prescribed all accidents, occupational diseases and other hazardous occurrences known to the employer;

(d) post at a place accessible to every employee and at every place directed by a health and safety officer

(i) a copy of this Part,

(ii) a statement of the employer's general policy concerning the health and safety at work of employees, and

(iii) any other printed material related to health and safety that may be directed by a health and safety officer or that is prescribed;

(e) make readily available to employees for examination, in printed or electronic form, a copy of the regulations made under this Part that apply to the work place;

(f) if a copy of the regulations is made available in electronic form, provide appropriate training to employees to enable them to have access to the regulations and, on the request of an employee, make a printed copy of the regulations available;

(g) keep and maintain in prescribed form and manner prescribed health and safety records;

(h) provide prescribed first-aid facilities and health services;

(i) provide prescribed sanitary and personal facilities;

(j) provide, in accordance with prescribed standards, potable water;

(k) ensure that the vehicles and mobile equipment used by the employees in the course of their employment

meet prescribed standards;

(l) provide every person granted access to the work place by the employer with prescribed safety materials, equipment, devices and clothing;

(m) ensure that the use, operation and maintenance of the following are in accordance with prescribed standards:

(i) boilers and pressure vessels,

(ii) escalators, elevators and other devices for moving persons or freight,

(iii) all equipment for the generation, distribution or use of electricity,

(iv) gas or oil burning equipment or other heat generating equipment, and

(v) heating, ventilation and air-conditioning systems;

(n) ensure that the levels of ventilation, lighting, temperature, humidity, sound and vibration are in accordance with prescribed standards;

(o) comply with prescribed standards relating to fire safety and emergency measures;

(p) ensure, in the prescribed manner, that employees have safe entry to, exit from and occupancy of the work place;

(q) provide, in the prescribed manner, each employee with the information, instruction, training and supervision necessary to ensure their health and safety at work;

(r) maintain all installed guards, guard-rails, barricades and fences in accordance with prescribed standards;

(s) ensure that each employee is made aware of every known or foreseeable health or safety hazard in the area where the employee works;

(t) ensure that the machinery, equipment and tools used by the employees in the course of their employment meet prescribed health, safety and ergonomic standards and are safe under all conditions of their intended use;

(u) ensure that the work place, work spaces and procedures meet prescribed ergonomic standards;

(v) adopt and implement prescribed safety codes and safety standards;

(w) ensure that every person granted access to the work place by the employer is familiar with and uses in the prescribed circumstances and manner all prescribed safety materials, equipment, devices and clothing;

(x) comply with every oral or written direction given to the employer by an appeals officer or a health and safety officer concerning the health and safety of employees;

(y) ensure that the activities of every person granted access to the work place do not endanger the health and safety of employees;

(z) ensure that employees who have supervisory or managerial responsibilities are adequately trained in health and safety and are informed of the responsibilities they have under this Part where they act on behalf of their employer;

(z.01) ensure that members of policy and work place committees and health and safety representatives receive the prescribed training in health and safety and are informed of their responsibilities under this Part;

(z.02) respond as soon as possible to reports made by employees under paragraph 126(1)(g);

(z.03) develop, implement and monitor, in consultation with the policy committee or, if there is no policy committee, with the work place committee or the health and safety representative, a prescribed program for the prevention of hazards in the work place appropriate to its size and the nature of the hazards in it that also provides for the education of employees in health and safety matters;

(z.04) where the program referred to in paragraph (z.03) does not cover certain hazards unique to a work place, develop, implement and monitor, in consultation with the work place committee or the health and safety representative, a prescribed program for the prevention of those hazards that also provides for the education of employees in health and safety matters related to those hazards;

(z.05) consult the policy committee or, if there is no policy committee, the work place committee or the health and safety representative to plan the implementation of changes that might affect occupational health and safety, including work processes and procedures;

(z.06) consult the work place committee or the health and safety representative in the implementation of changes that might affect occupational health and safety, including work processes and procedures;

(z.07) ensure the availability in the work place of premises, equipment and personnel necessary for the operation of the policy and work place committees;

(z.08) cooperate with the policy and work place committees or the health and safety representative in the execution of their duties under this Part;

(z.09) develop health and safety policies and programs in consultation with the policy committee or, if there is no policy committee, with the work place committee or the health and safety representative;

(z.10) respond in writing to recommendations made by the policy and work place committees or the health and safety representative within thirty days after receiving them, indicating what, if any, action will be taken and when it will be taken;

(z.11) provide to the policy committee, if any, and to the work place committee or the health and safety representative, a copy of any report on hazards in the work place, including an assessment of those hazards;

(z.12) ensure that the work place committee or the health and safety representative inspects each month all or part of the work place, so that every part of the work place is inspected at least once each year;

(z.13) when necessary, develop, implement and monitor a program for the provision of personal protective equipment, clothing, devices or materials, in consultation, except in emergencies, with the policy committee or, if there is no policy committee, with the work place committee or the health and safety representative;

(z.14) take all reasonable care to ensure that all of the persons granted access to the work place, other than the employer's employees, are informed of every known or foreseeable health or safety hazard to which they are likely to be exposed in the work place;

(z.15) meet with the health and safety representative as necessary to address health and safety matters;

(z.16) take the prescribed steps to prevent and protect against violence in the work place;

(z.17) post and keep posted, in a conspicuous place or places where they are likely to come to the attention of employees, the names, work place telephone numbers and work locations of all of the members of work place committees or of the health and safety representative;

(z.18) provide, within thirty days after receiving a request, or as soon as possible after that, the information requested from the employer by a policy committee under subsection 134.1(5) or (6), by a work

place committee under subsection 135(8) or (9) or by a health and safety representative under subsection 136 (6) or (7); and

(z.19) consult with the work place committee or the health and safety representative on the implementation and monitoring of programs developed in consultation with the policy committee.

Exception

(2) Paragraph (1)(z.17) does not apply to an employer who controls

(a) a single work place at which fewer than twenty employees are normally employed, if all of those employees and the health and safety representative normally work at the same time and in the same location; or

(b) a single work place at which only one employee is normally employed.

R.S., 1985, c. L-2, s. 125; R.S., 1985, c. 9 (1st Supp.), s. 4, c. 24 (3rd Supp.), s. 4; 1993, c. 42, s. 4(F); 2000, c. 20, s. 5.

Further specific duties of employer

125.1 Without restricting the generality of section 124 or limiting the duties of an employer under section 125 but subject to any exceptions that may be prescribed, every employer shall, in respect of every work place controlled by the employer and, in respect of every work activity carried out by an employee in a work place that is not controlled by the employer, to the extent that the employer controls the activity,

(a) ensure that concentrations of hazardous substances in the work place are controlled in accordance with prescribed standards;

(b) ensure that all hazardous substances in the work place are stored and handled in the manner prescribed;

(c) ensure that all hazardous substances in the work place, other than controlled products, are identified in the manner prescribed;

(d) subject to the *Hazardous Materials Information Review Act*, ensure that each controlled product in the work place or each container in the work place in which a controlled product is contained has applied to it a label that discloses prescribed information and has displayed on it, in the manner prescribed, all applicable prescribed hazard symbols;

(e) subject to the *Hazardous Materials Information Review Act*, make available to every employee, in the prescribed manner, a material safety data sheet that discloses the following information with respect to each controlled product to which the employee may be exposed, namely,

(i) if the controlled product is a pure substance, its chemical identity, and if it is not a pure substance, the chemical identity of any ingredient of it that is a controlled product and the concentration of that ingredient,

(ii) if the controlled product contains an ingredient that is included in the Ingredient Disclosure List and the ingredient is in a concentration that is equal to or greater than the concentration specified in the Ingredient Disclosure List for that ingredient, the chemical identity and concentration of that ingredient,

(iii) the chemical identity of any ingredient of the controlled product that the employer believes on reasonable grounds may be harmful to an employee and the concentration of that ingredient,

(iv) the chemical identity of any ingredient of the controlled product the toxicological properties of which are not known to the employer and the concentration of that ingredient, and

(v) any other information with respect to the controlled product that may be prescribed;

(f) where employees may be exposed to hazardous substances, investigate and assess the exposure in the manner prescribed, with the assistance of the work place committee or the health and safety representative; and

(g) ensure that all records of exposure to hazardous substances are kept and maintained in the prescribed manner and that personal records of exposure are made available to the affected employees.

R.S., 1985, c. 24 (3rd Supp.), s. 5; 1993, c. 42, s. 5(F); 2000, c. 20, s. 6.

Employer to provide information in emergency

125.2 (1) An employer shall, in respect of every work place controlled by the employer and, in respect of every work activity carried out by an employee in a work place that is not controlled by the employer, to the extent that the employer controls that activity, provide, in respect of any controlled product to which an employee may be exposed, as soon as is practicable in the circumstances, any information referred to in paragraph 125.1(e) that is in the employer's possession to any physician or other prescribed medical professional who requests that information for the purpose of making a medical diagnosis of, or rendering medical treatment to, an employee in an emergency.

Information to be kept confidential

(2) Any physician or other prescribed medical professional to whom information is provided by an employer pursuant to subsection (1) shall keep confidential any information specified by the employer as being confidential, except for the purpose for which it is

provided.

R.S., 1985, c. 24 (3rd Supp.), s. 5; 2000, c. 20, s. 7.

Coal mines

125.3 (1) Every employer of employees employed in a coal mine shall

(a) comply with every condition imposed on the employer pursuant to paragraph 137.2(2)(b) or (3)(a);

(b) comply with every provision substituted for a provision of the regulations, in respect of the employer, pursuant to paragraph 137.2(3)(b);

(c) permit inspections and tests to be carried out on behalf of the employees, in any part of the mine and on any machinery or equipment therein, in the prescribed manner and at intervals not greater than the prescribed interval; and

(d) as a condition of carrying out any activity for which the submission of plans and procedures is prescribed, submit to the Coal Mining Safety Commission for approval, in the form and manner and at the time prescribed, plans and procedures relating to that activity and carry out the activity in conformity with plans and procedures as approved.

Methods, machinery and equipment

(2) No employer shall require or permit the use in a coal mine of any mining method, machinery or equipment in respect of which no prescribed safety standards are applicable unless the use thereof has been approved pursuant to paragraph 137.2(2)(a).

Searches

(3) Every employer of employees employed in a coal mine shall, at intervals not greater than the prescribed interval, for the purpose of preventing alcohol, articles for use in smoking and drugs, other than drugs exempted by the regulations, from being brought into the mine,

(a) require every person entering an underground portion of the mine who is not employed there to submit to a personal search conducted in the prescribed manner; and

(b) require a proportion, not less than the prescribed proportion, of employees employed in the underground portions of the mine to submit to personal searches conducted in the prescribed manner.

Definition of "coal mine"

(4) For the purposes of this section and section 137.2, "coal mine" includes any work place above ground that is used in the operation of the mine and is under the control of the employer of employees employed in the mine.

R.S., 1985, c. 26 (4th Supp.), s. 1.

Duties of Employees

Health and safety

126. (1) While at work, every employee shall

matters

(a) use any safety materials, equipment, devices and clothing that are intended for the employee's protection and furnished to the employee by the employer or that are prescribed;

(b) follow prescribed procedures with respect to the health and safety of employees;

(c) take all reasonable and necessary precautions to ensure the health and safety of the employee, the other employees and any person likely to be affected by the employee's acts or omissions;

(d) comply with all instructions from the employer concerning the health and safety of employees;

(e) cooperate with any person carrying out a duty imposed under this Part;

(f) cooperate with the policy and work place committees or the health and safety representative;

(g) report to the employer any thing or circumstance in a work place that is likely to be hazardous to the health or safety of the employee, or that of the other employees or other persons granted access to the work place by the employer;

(h) report in the prescribed manner every accident or other occurrence arising in the course of or in connection with the employee's work that has caused injury to the employee or to any other person;

(i) comply with every oral or written direction of a health and safety officer or an appeals officer concerning the health and safety of employees; and

(j) report to the employer any situation that the employee believes to be a contravention of this Part by the employer, another employee or any other person.

No relief of employer's duties

(2) Nothing in subsection (1) relieves an employer from any duty imposed on the employer under this Part.

Limitation of liability

(3) No employee is personally liable for anything done or omitted to be done in good faith by the employee when the employee is assisting the employer, as requested by the employer, in providing first-aid or in carrying out any other emergency measures.

R.S., 1985, c. L-2, s. 126; R.S., 1985, c. 9 (1st Supp.), s. 4; 1993, c. 42, s. 6(F); 2000, c. 20, s. 8.

*Employment Safety*Interference at accident scene prohibited

127. (1) Subject to subsection (2), if an employee is killed or seriously injured in a work place, no person shall, unless authorized to do so by a health and safety officer,

remove or in any way interfere with or disturb any wreckage, article or thing related to the incident except to the extent necessary to

(a) save a life, prevent injury or relieve human suffering in the vicinity;

(b) maintain an essential public service; or

(c) prevent unnecessary damage to or loss of property.

Exception

(2) No authorization referred to in subsection (1) is required where an employee is killed or seriously injured by an accident or incident involving

(a) an aircraft, a ship, rolling stock or a pipeline, where the accident or incident is being investigated under the *Aeronautics Act*, the *Canada Shipping Act* or the *Canadian Transportation Accident Investigation and Safety Board Act*; or

(b) a motor vehicle on a public highway.

R.S., 1985, c. L-2, s. 127; R.S., 1985, c. 9 (1st Supp.), s. 4; 1989, c. 3, s. 45; 1996, c. 10, s. 235; 1998, c. 20, s. 29; 2000, c. 20, s. 9.

Internal Complaint Resolution Process

Complaint to supervisor

127.1 (1) An employee who believes on reasonable grounds that there has been a contravention of this Part or that there is likely to be an accident or injury to health arising out of, linked with or occurring in the course of employment shall, before exercising any other recourse available under this Part, except the rights conferred by sections 128, 129 and 132, make a complaint to the employee's supervisor.

Resolve complaint

(2) The employee and the supervisor shall try to resolve the complaint between themselves as soon as possible.

Investigation of complaint

(3) The employee or the supervisor may refer an unresolved complaint to a chairperson of the work place committee or to the health and safety representative to be investigated jointly

(a) by an employee member and an employer member of the work place committee; or

(b) by the health and safety representative and a person designated by the employer.

Notice

(4) The persons who investigate the complaint shall inform the employee and the employer in writing, in the form and manner prescribed if any is prescribed, of the results of the investigation.

Recommendations

(5) The persons who investigate a complaint may make recommendations to the employer with respect to the

situation that gave rise to the complaint, whether or not they conclude that the complaint is justified.

Employer's duty

(6) If the persons who investigate the complaint conclude that the complaint is justified, the employer, on being informed of the results of the investigation, shall in writing and without delay inform the persons who investigated the complaint of how and when the employer will resolve the matter, and the employer shall resolve the matter accordingly.

Stoppage of activity

(7) If the persons who investigate the complaint conclude that a danger exists as described in subsection 128(1), the employer shall, on receipt of a written notice, ensure that no employee use or operate the machine or thing, work in the place or perform the activity that constituted the danger until the situation is rectified.

Referral to health and safety officer

(8) The employee or employer may refer a complaint that there has been a contravention of this Part to a health and safety officer in the following circumstances:

(a) where the employer does not agree with the results of the investigation;

(b) where the employer has failed to inform the persons who investigated the complaint of how and when the employer intends to resolve the matter or has failed to take action to resolve the matter; or

(c) where the persons who investigated the complaint do not agree between themselves as to whether the complaint is justified.

Investigation by health and safety officer

(9) The health and safety officer shall investigate, or cause another health and safety officer to investigate, the complaint referred to the officer under subsection (8).

Duty and power of health and safety officer

(10) On completion of the investigation, the health and safety officer

(a) may issue directions to an employer or employee under subsection 145(1);

(b) may, if in the officer's opinion it is appropriate, recommend that the employee and employer resolve the matter between themselves; or

(c) shall, if the officer concludes that a danger exists as described in subsection 128(1), issue directions under subsection 145(2).

Interpretation

(11) For greater certainty, nothing in this section limits a health and safety officer's authority under section 145.

2000, c. 20, s. 10.

Refusal to work if danger

128. (1) Subject to this section, an employee may refuse to use or operate a machine or thing, to work in a place or to perform an activity, if the employee while at work has reasonable cause to believe that

(a) the use or operation of the machine or thing constitutes a danger to the employee or to another employee;

(b) a condition exists in the place that constitutes a danger to the employee; or

(c) the performance of the activity constitutes a danger to the employee or to another employee.

No refusal permitted in certain dangerous circumstances

(2) An employee may not, under this section, refuse to use or operate a machine or thing, to work in a place or to perform an activity if

(a) the refusal puts the life, health or safety of another person directly in danger; or

(b) the danger referred to in subsection (1) is a normal condition of employment.

Employees on ships and aircraft

(3) If an employee on a ship or an aircraft that is in operation has reasonable cause to believe that

(a) the use or operation of a machine or thing on the ship or aircraft constitutes a danger to the employee or to another employee,

(b) a condition exists in a place on the ship or aircraft that constitutes a danger to the employee, or

(c) the performance of an activity on the ship or aircraft by the employee constitutes a danger to the employee or to another employee,

the employee shall immediately notify the person in charge of the ship or aircraft of the circumstances of the danger and the person in charge shall, as soon as is practicable after having been so notified, having regard to the safe operation of the ship or aircraft, decide whether the employee may discontinue the use or operation of the machine or thing or cease working in that place or performing that activity and shall inform the employee accordingly.

No refusal permitted in certain cases

(4) An employee who, under subsection (3), is informed that the employee may not discontinue the use or operation of a machine or thing or cease to work in a place or perform an activity shall not, while the ship or aircraft on which the employee is employed is in operation, refuse under this section to use or operate the machine or thing, work in that place or perform that activity.

When ship or aircraft in operation

(5) For the purposes of subsections (3) and (4),

(a) a ship is in operation from the time it casts off from a wharf in a Canadian or foreign port until it is next secured alongside a wharf in Canada; and

	(b) an aircraft is in operation from the time it first moves under its own power for the purpose of taking off from a Canadian or foreign place of departure until it comes to rest at the end of its flight to its first destination in Canada.
Report to employer	(6) An employee who refuses to use or operate a machine or thing, work in a place or perform an activity under subsection (1), or who is prevented from acting in accordance with that subsection by subsection (4), shall report the circumstances of the matter to the employer without delay.
Select a remedy	(7) Where an employee makes a report under subsection (6), the employee, if there is a collective agreement in place that provides for a redress mechanism in circumstances described in this section, shall inform the employer, in the prescribed manner and time if any is prescribed, whether the employee intends to exercise recourse under the agreement or this section. The selection of recourse is irrevocable unless the employer and employee agree otherwise.
Employer to take immediate action	(8) If the employer agrees that a danger exists, the employer shall take immediate action to protect employees from the danger. The employer shall inform the work place committee or the health and safety representative of the matter and the action taken to resolve it.
Continued refusal	(9) If the matter is not resolved under subsection (8), the employee may, if otherwise entitled to under this section, continue the refusal and the employee shall without delay report the circumstances of the matter to the employer and to the work place committee or the health and safety representative.
Investigation of report	(10) An employer shall, immediately after being informed of the continued refusal under subsection (9), investigate the matter in the presence of the employee who reported it and of <ul style="list-style-type: none"> (a) at least one member of the work place committee who does not exercise managerial functions; (b) the health and safety representative; or (c) if no person is available under paragraph (a) or (b), at least one person from the work place who is selected by the employee.
If more than one report	(11) If more than one employee has made a report of a similar nature under subsection (9), those employees may designate one employee from among themselves to be present at the investigation.
Absence of employee	(12) An employer may proceed with an investigation in the absence of the employee who reported the matter if that employee or a person designated under subsection (11) chooses not to be present.
Continued refusal to work	(13) If an employer disputes a matter reported under

subsection (9) or takes steps to protect employees from the danger, and the employee has reasonable cause to believe that the danger continues to exist, the employee may continue to refuse to use or operate the machine or thing, work in that place or perform that activity. On being informed of the continued refusal, the employer shall notify a health and safety officer.

Notification of steps to eliminate danger

(14) An employer shall inform the work place committee or the health and safety representative of any steps taken by the employer under subsection (13).

R.S., 1985, c. L-2, s. 128; R.S., 1985, c. 9 (1st Supp.), s. 4; 2000, c. 20, s. 10.

Employees on shift during work stoppage

128.1 (1) Unless otherwise provided in a collective agreement or other agreement, employees who are affected by a stoppage of work arising from the application of section 127.1, 128 or 129 or subsection 145(2) are deemed, for the purpose of calculating wages and benefits, to be at work during the stoppage until work resumes or until the end of the scheduled work period or shift, whichever period is shorter.

Employees on next shift

(2) Unless otherwise provided in a collective agreement or other agreement, employees who are due to work on a scheduled work period or shift after a shift during which there has been a stoppage of work arising from the application of section 127.1, 128 or 129 or subsection 145(2) are deemed, for the purpose of calculating wages and benefits, to be at work during their work period or shift, unless they have been given at least one hour's notice not to attend work.

Alternative work

(3) An employer may assign reasonable alternative work to employees who are deemed under subsection (1) or (2) to be at work.

Repayment

(4) Unless otherwise provided in a collective agreement or other agreement, employees who are paid wages or benefits under subsection (1) or (2) may be required by the employer to repay those wages and benefits if it is determined, after all avenues of redress have been exhausted by the employee who exercised rights under section 128 or 129, that the employee exercised those rights knowing that no circumstances existed that would warrant it.

2000, c. 20, s. 10.

Investigation by health and safety officer

129. (1) On being notified that an employee continues to refuse to use or operate a machine or thing, work in a place or perform an activity under subsection 128(13), the health and safety officer shall without delay investigate or cause another officer to investigate the matter in the presence of the employer, the employee and one other person who is

(a) an employee member of the work place committee;

(b) the health and safety representative; or

(c) if a person mentioned in paragraph (a) or (b) is not available, another employee from the work place who is designated by the employee.

Employees' representative if more than one employee

(2) If the investigation involves more than one employee, those employees may designate one employee from among themselves to be present at the investigation.

Absence of any person

(3) A health and safety officer may proceed with an investigation in the absence of any person mentioned in subsection (1) or (2) if that person chooses not to be present.

Decision of health and safety officer

(4) A health and safety officer shall, on completion of an investigation made under subsection (1), decide whether the danger exists and shall immediately give written notification of the decision to the employer and the employee.

Continuation of work

(5) Before the investigation and decision of a health and safety officer under this section, the employer may require that the employee concerned remain at a safe location near the place in respect of which the investigation is being made or assign the employee reasonable alternative work, and shall not assign any other employee to use or operate the machine or thing, work in that place or perform the activity referred to in subsection (1) unless

(a) the other employee is qualified for the work;

(b) the other employee has been advised of the refusal of the employee concerned and of the reasons for the refusal; and

(c) the employer is satisfied on reasonable grounds that the other employee will not be put in danger.

Decision of health and safety officer re danger

(6) If a health and safety officer decides that the danger exists, the officer shall issue the directions under subsection 145(2) that the officer considers appropriate, and an employee may continue to refuse to use or operate the machine or thing, work in that place or perform that activity until the directions are complied with or until they are varied or rescinded under this Part.

Appeal

(7) If a health and safety officer decides that the danger does not exist, the employee is not entitled under section 128 or this section to continue to refuse to use or operate the machine or thing, work in that place or perform that activity, but the employee, or a person designated by the employee for the purpose, may appeal the decision, in writing, to an appeals officer within ten days after receiving notice of the decision.

R.S., 1985, c. L-2, s. 129; R.S., 1985, c. 9 (1st Supp.), s. 4; 1993, c. 42, s. 7(F); 2000, c. 20, s. 10.

When collective agreement exists

130. The Minister may, on the joint application of the parties to a collective agreement, if the Minister is satisfied that the agreement contains provisions that are at least as

effective as those under sections 128 and 129 in protecting the employees to whom the agreement relates from danger to their health or safety, exclude the employees from the application of those sections for the period during which the agreement remains in force.

R.S., 1985, c. L-2, s. 130; R.S., 1985, c. 9 (1st Supp.), s. 4; 2000, c. 20, s. 10.

Compensation under other laws not precluded

131. The fact that an employer or employee has complied with or failed to comply with any of the provisions of this Part may not be construed as affecting any right of an employee to compensation under any statute relating to compensation for employment injury or illness, or as affecting any liability or obligation of any employer or employee under any such statute.

R.S., 1985, c. L-2, s. 131; R.S., 1985, c. 9 (1st Supp.), s. 4; 2000, c. 20, s. 10.

Pregnant and Nursing Employees

Cease to perform job

132. (1) In addition to the rights conferred by section 128 and subject to this section, an employee who is pregnant or nursing may cease to perform her job if she believes that, by reason of the pregnancy or nursing, continuing any of her current job functions may pose a risk to her health or to that of the foetus or child. On being informed of the cessation, the employer, with the consent of the employee, shall notify the work place committee or the health and safety representative.

Consult medical practitioner

(2) The employee must consult with a qualified medical practitioner, as defined in section 166, of her choice as soon as possible to establish whether continuing any of her current job functions poses a risk to her health or to that of the foetus or child.

Provision no longer applicable

(3) Without prejudice to any other right conferred by this Act, by a collective agreement or other agreement or by any terms and conditions of employment, once the medical practitioner has established whether there is a risk as described in subsection (1), the employee may no longer cease to perform her job under subsection (1).

Employer may reassign

(4) For the period during which the employee does not perform her job under subsection (1), the employer may, in consultation with the employee, reassign her to another job that would not pose a risk to her health or to that of the foetus or child.

Status of employee

(5) The employee, whether or not she has been reassigned to another job, is deemed to continue to hold the job that she held at the time she ceased to perform her job functions and shall continue to receive the wages and benefits that are attached to that job for the period during which she does not perform the job.

R.S., 1985, c. L-2, s. 132; R.S., 1985, c. 9 (1st Supp.), s. 4; 2000, c. 20, s. 10.

*Complaints when Action against Employees*Complaint to Board

133. (1) An employee, or a person designated by the employee for the purpose, who alleges that an employer has taken action against the employee in contravention of section 147 may, subject to subsection (3), make a complaint in writing to the Board of the alleged contravention.

Time for making complaint

(2) The complaint shall be made to the Board not later than ninety days after the date on which the complainant knew, or in the Board's opinion ought to have known, of the action or circumstances giving rise to the complaint.

Restriction

(3) A complaint in respect of the exercise of a right under section 128 or 129 may not be made under this section unless the employee has complied with subsection 128(6) or a health and safety officer has been notified under subsection 128(13), as the case may be, in relation to the matter that is the subject-matter of the complaint.

Exclusion of arbitration

(4) Notwithstanding any law or agreement to the contrary, a complaint made under this section may not be referred by an employee to arbitration or adjudication.

Duty and power of Board

(5) On receipt of a complaint made under this section, the Board may assist the parties to the complaint to settle the complaint and shall, if it decides not to so assist the parties or the complaint is not settled within a period considered by the Board to be reasonable in the circumstances, hear and determine the complaint.

Burden of proof

(6) A complaint made under this section in respect of the exercise of a right under section 128 or 129 is itself evidence that the contravention actually occurred and, if a party to the complaint proceedings alleges that the contravention did not occur, the burden of proof is on that party.

R.S., 1985, c. L-2, s. 133; R.S., 1985, c. 9 (1st Supp.), s. 4; 2000, c. 20, s. 10.

Board orders

134. If, under subsection 133(5), the Board determines that an employer has contravened section 147, the Board may, by order, require the employer to cease contravening that section and may, if applicable, by order, require the employer to

(a) permit any employee who has been affected by the contravention to return to the duties of their employment;

(b) reinstate any former employee affected by the contravention;

(c) pay to any employee or former employee affected by the contravention compensation not exceeding the sum that, in the Board's opinion, is equivalent to the remuneration that would, but for the contravention, have been paid by the employer to the employee or

former employee; and

(d) rescind any disciplinary action taken in respect of, and pay compensation to any employee affected by, the contravention, not exceeding the sum that, in the Board's opinion, is equivalent to any financial or other penalty imposed on the employee by the employer.

R.S., 1985, c. L-2, s. 134; R.S., 1985, c. 9 (1st Supp.), s. 4; 2000, c. 20, s. 10.

Policy Health and Safety Committees

Establishment
mandatory

134.1 (1) For the purposes of addressing health and safety matters that apply to the work, undertaking or business of an employer, every employer who normally employs directly three hundred or more employees shall establish a policy health and safety committee and, subject to section 135.1, select and appoint its members.

Exception

(2) An employer who normally employs directly more than twenty but fewer than three hundred employees may also establish a policy committee.

More than one
committee

(3) An employer may establish more than one policy committee with the agreement of

(a) the trade union, if any, representing the employees; and

(b) the employees, in the case of employees not represented by a trade union.

Duties of policy
committee

(4) A policy committee

(a) shall participate in the development of health and safety policies and programs;

(b) shall consider and expeditiously dispose of matters concerning health and safety raised by members of the committee or referred to it by a work place committee or a health and safety representative;

(c) shall participate in the development and monitoring of a program for the prevention of hazards in the work place that also provides for the education of employees in health and safety matters;

(d) shall participate to the extent that it considers necessary in inquiries, investigations, studies and inspections pertaining to occupational health and safety;

(e) shall participate in the development and monitoring of a program for the provision of personal protective equipment, clothing, devices or materials;

(f) shall cooperate with health and safety officers;

(g) shall monitor data on work accidents, injuries and health hazards; and

(h) shall participate in the planning of the implementation and in the implementation of changes that might affect occupational health and safety, including work processes and procedures.

Information

(5) A policy committee may request from an employer any information that the committee considers necessary to identify existing or potential hazards with respect to materials, processes, equipment or activities in any of the employer's work places.

Access

(6) A policy committee shall have full access to all of the government and employer reports, studies and tests relating to the health and safety of employees in the work place, or to the parts of those reports, studies and tests that relate to the health and safety of employees, but shall not have access to the medical records of any person except with the person's consent.

Meetings of committee

(7) A policy committee shall meet during regular working hours at least quarterly and, if other meetings are required as a result of an emergency or other special circumstances, the committee shall meet as required during regular working hours or outside those hours.

2000, c. 20, s. 10.

Work Place Health and Safety Committees

Establishment mandatory

135. (1) For the purposes of addressing health and safety matters that apply to individual work places, and subject to this section, every employer shall, for each work place controlled by the employer at which twenty or more employees are normally employed, establish a work place health and safety committee and, subject to section 135.1, select and appoint its members.

Exception

(2) An employer is not required to establish a committee under subsection (1) for a work place that is on board a ship in respect of employees whose base is the ship.

Exemption by Minister

(3) On receipt of a request from an employer that is submitted in the form and manner prescribed, if any is prescribed, and if the Minister is satisfied after considering the factors set out in subsection (4) that the nature of work being done by employees at the work place is relatively free from risks to health and safety, the Minister may, by order, on any terms and conditions that are specified in the order, exempt the employer from the requirement to establish a work place committee.

Factors to be considered

(4) The following factors are to be considered for the purposes of subsection (3):

(a) the risk of occupational injury or illness from hazardous substances or other conditions known to be associated with the type of activity conducted in that

type of work place;

(b) whether the nature of the operation of, and the processes and equipment used in, the work place are relatively free from hazards to health and safety in comparison with similar operations, processes and equipment;

(c) the physical and organizational structure of the work place, including the number of employees and the different types of work being performed; and

(d) during the current calendar year and the two calendar years immediately before it,

(i) the number of disabling injuries in relation to the number of hours worked in the work place,

(ii) the occurrence of incidents in the work place having serious effects on health and safety, and

(iii) any directions issued in respect of contraventions of paragraph 125(1)(c), (z.10) or (z.11), and any contraventions of this Part that had serious consequences in respect of the work place.

Posting of request

(5) A request for an exemption must be posted in a conspicuous place or places where it is likely to come to the attention of employees, and be kept posted until the employees are informed of the Minister's decision in respect of the request.

Exemption if collective agreement

(6) If, under a collective agreement or any other agreement between an employer and the employer's employees, a committee of persons has been appointed and the committee has, in the opinion of a health and safety officer, a responsibility for matters relating to health and safety in the work place to such an extent that a work place committee established under subsection (1) for that work place would not be necessary,

(a) the health and safety officer may, by order, exempt the employer from the requirements of subsection (1) in respect of that work place;

(b) the committee of persons that has been appointed for the work place has, in addition to any rights, functions, powers, privileges and obligations under the agreement, the same rights, functions, powers, privileges and obligations as a work place committee under this Part; and

(c) the committee of persons so appointed is, for the purposes of this Part, deemed to be a work place committee established under subsection (1) and all rights and obligations of employers and employees under this Part and the provisions of this Part respecting a work place committee apply, with any modifications that the circumstances require, to the committee of persons so appointed.

Duties of committee

(7) A work place committee, in respect of the work place for which it is established,

(a) shall consider and expeditiously dispose of complaints relating to the health and safety of employees;

(b) shall participate in the implementation and monitoring of the program referred to in paragraph 134.1(4)(c);

(c) where the program referred to in paragraph 134.1(4)(c) does not cover certain hazards unique to the work place, shall participate in the development, implementation and monitoring of a program for the prevention of those hazards that also provides for the education of employees in health and safety matters related to those hazards;

(d) where there is no policy committee, shall participate in the development, implementation and monitoring of a program for the prevention of hazards in the work place that also provides for the education of employees in health and safety matters related to those hazards;

(e) shall participate in all of the inquiries, investigations, studies and inspections pertaining to the health and safety of employees, including any consultations that may be necessary with persons who are professionally or technically qualified to advise the committee on those matters;

(f) shall participate in the implementation and monitoring of a program for the provision of personal protective equipment, clothing, devices or materials and, where there is no policy committee, shall participate in the development of the program;

(g) shall ensure that adequate records are maintained on work accidents, injuries and health hazards relating to the health and safety of employees and regularly monitor data relating to those accidents, injuries and hazards;

(h) shall cooperate with health and safety officers;

(i) shall participate in the implementation of changes that might affect occupational health and safety, including work processes and procedures and, where there is no policy committee, shall participate in the planning of the implementation of those changes;

(j) shall assist the employer in investigating and assessing the exposure of employees to hazardous substances;

(k) shall inspect each month all or part of the work place, so that every part of the work place is inspected

at least once each year; and

(f) where there is no policy committee, shall participate in the development of health and safety policies and programs.

Information

(8) A work place committee, in respect of the work place for which it is established, may request from an employer any information that the committee considers necessary to identify existing or potential hazards with respect to materials, processes, equipment or activities.

Access

(9) A work place committee, in respect of the work place for which it is established, shall have full access to all of the government and employer reports, studies and tests relating to the health and safety of the employees, or to the parts of those reports, studies and tests that relate to the health and safety of employees, but shall not have access to the medical records of any person except with the person's consent.

Meetings of committee

(10) A work place committee shall meet during regular working hours at least nine times a year at regular intervals and, if other meetings are required as a result of an emergency or other special circumstances, the committee shall meet as required during regular working hours or outside those hours.

R.S., 1985, c. L-2, s. 135; R.S., 1985, c. 9 (1st Supp.), s. 4, c. 26 (4th Supp.), s. 2; 1993, c. 42, s. 8(F); 2000, c. 20, s. 10.

Provisions Common to Policy Committees and Work Place Committees

Appointment of members

135.1 (1) Subject to this section, a policy committee or a work place committee shall consist of at least two persons and at least half of the members shall be employees who

(a) do not exercise managerial functions; and

(b) subject to any regulations made under subsection 135.2(1), have been selected by

(i) the employees, if the employees are not represented by a trade union, or

(ii) the trade union representing employees, in consultation with any employees who are not so represented.

Exception -- policy committee

(2) Despite subsection (1) and if provided in a collective agreement or other agreement, the members of a policy committee may include persons who are not employees.

Exception -- work place committee

(3) If there is no policy committee, a work place committee may, when dealing with an issue that would have come within the responsibilities of a policy committee, select two additional members. Unless

	<p>otherwise provided in a collective agreement or other agreement, one of the additional members shall be an employee who meets the criteria set out in paragraphs (1)(a) and (b).</p>
Notification	<p>(4) If a trade union fails to select a person under subparagraph (1)(b)(ii), a health and safety officer may notify in writing the local branch of the trade union, and shall send a copy of any such notification to the trade union's national or international headquarters and to the employer, indicating that the committee is not established until a person is selected in accordance with subparagraph (1)(b)(ii).</p>
Failure to select	<p>(5) If no person is selected under paragraph (1)(b), the employer shall perform the functions of the committee until a person is selected and the committee is established.</p>
Alternate members	<p>(6) The employer and employees may select alternate members to serve as replacements for members selected by them who are unable to perform their functions. Alternate members for employee members shall meet the criteria set out in paragraphs (1)(a) and (b).</p>
Chairpersons	<p>(7) A committee shall have two chairpersons selected from among the committee members. One of the chairpersons shall be selected by the employee members and the other shall be selected by the employer members.</p>
Chairpersons to assign functions	<p>(8) The chairpersons of a committee shall jointly designate members of the committee to perform the functions of the committee under this Part as follows:</p> <p>(a) if two or more members are designated, at least half of the members shall be employee members; or</p> <p>(b) if one member is designated, the member shall be an employee member.</p>
Records	<p>(9) A committee shall ensure that accurate records are kept of all of the matters that come before it and that minutes are kept of its meetings. The committee shall make the minutes and records available to a health and safety officer at the officer's request.</p>
Time required for duties	<p>(10) The members of a committee are entitled to take the time required, during their regular working hours,</p> <p>(a) to attend meetings or to perform any of their other functions; and</p> <p>(b) for the purposes of preparation and travel, as authorized by both chairpersons of the committee.</p>
Payment of wages	<p>(11) A committee member shall be compensated by the employer for the functions described in paragraphs (10)(a) and (b), whether performed during or outside the member's regular working hours, at the member's regular rate of pay or premium rate of pay, as specified in the collective agreement or, if there is no collective agreement, in accordance with the employer's policy.</p>

Wages for alternate members

(12) Subsections (10) and (11) apply to alternate members only while they are actually performing the functions of the committee member they are replacing.

Limitation of liability

(13) No person serving as a member of a committee is personally liable for anything done or omitted to be done by the person in good faith under the authority or purported authority of this Part.

Committee may establish rules

(14) Subject to subsections 134.1(7) and 135(10) and any regulations made under subsection 135.2(1), a committee shall establish its own rules of procedure in respect of the terms of office, not exceeding two years, of its members and the time, place and frequency of regular meetings of the committee and may establish any rules of procedure for its operation that it considers advisable.

2000, c. 20, s. 10.

Regulations

135.2 (1) The Governor in Council may make regulations

(a) specifying the qualifications and terms of office of members of a committee;

(b) specifying the time and place of regular meetings of a committee;

(c) specifying the method of selecting employee members of a committee if employees are not represented by a trade union;

(d) specifying the method of selecting the chairpersons of a committee and their terms of office;

(e) establishing any rules of procedure for the operation of a committee that the Governor in Council considers advisable;

(f) requiring copies of minutes of committee meetings to be provided by and to any persons that the Governor in Council may prescribe;

(g) requiring a committee to submit an annual report of its activities to a specified person in the prescribed form within the prescribed time; and

(h) specifying the manner in which a committee may exercise its powers and perform its functions.

Regulation may be general or specific

(2) A regulation made under subsection (1) may be made applicable generally to all committees or particularly to one or more committees or classes of committees.

2000, c. 20, s. 10.

Health and Safety Representatives

Appointment of health

and safety
representative

136. (1) Every employer shall, for each work place controlled by the employer at which fewer than twenty employees are normally employed or for which an employer is not required to establish a work place committee, appoint the person selected in accordance with subsection (2) as the health and safety representative for that work place.

Selection of person to
be appointed

(2) The health and safety representative for a work place shall be selected as follows:

(a) the employees at the work place who do not exercise managerial functions shall select from among those employees the person to be appointed; or

(b) if those employees are represented by a trade union, the trade union shall select the person to be appointed, in consultation with any employees who are not so represented, and subject to any regulations made under subsection (11).

The employees or the trade union shall advise the employer in writing of the name of the person so selected.

Notification

(3) If a trade union fails to select a person under subsection (2), a health and safety officer may so notify in writing the local branch of the trade union. The officer shall send a copy of the notification to the trade union's national or international headquarters and to the employer.

Failure to select a
representative

(4) The employer shall perform the functions of the health and safety representative until a person is selected under subsection (2).

Duties of
representative

(5) A health and safety representative, in respect of the work place for which the representative is appointed,

(a) shall consider and expeditiously dispose of complaints relating to the health and safety of employees;

(b) shall ensure that adequate records are maintained pertaining to work accidents, injuries, health hazards and the disposition of complaints related to the health and safety of employees and regularly monitor data relating to those accidents, injuries, hazards and complaints;

(c) shall meet with the employer as necessary to address health and safety matters;

(d) shall participate in the implementation and monitoring of the program referred to in paragraph 134.1(4)(c);

(e) where the program referred to in paragraph 134.1(4)(c) does not cover certain hazards unique to that work place, shall participate in the development, implementation and monitoring of a program for the

prevention of those hazards that also provides for the education of employees in health and safety matters related to those hazards;

(f) where there is no policy committee, shall participate in the development, implementation and monitoring of a program for the prevention of hazards in the work place that also provides for the education of employees in health and safety matters;

(g) shall participate in all of the inquiries, investigations, studies and inspections pertaining to the health and safety of employees, including any consultations that may be necessary with persons who are professionally or technically qualified to advise the representative on those matters;

(h) shall cooperate with health and safety officers;

(i) shall participate in the implementation of changes that may affect occupational health and safety, including work processes and procedures and, where there is no policy committee, shall participate in the planning of the implementation of those changes;

(j) shall inspect each month all or part of the work place, so that every part of the work place is inspected at least once each year;

(k) shall participate in the development of health and safety policies and programs;

(l) shall assist the employer in investigating and assessing the exposure of employees to hazardous substances; and

(m) shall participate in the implementation and monitoring of a program for the provision of personal protective equipment, clothing, devices or materials and, where there is no policy committee, shall participate in the development of the program.

Information

(6) A health and safety representative, in respect of the work place for which the representative is appointed, may request from an employer any information that the representative considers necessary to identify existing or potential hazards with respect to materials, processes, equipment or activities.

Access

(7) A health and safety representative, in respect of the work place for which the representative is appointed, shall have full access to all of the government and employer reports, studies and tests relating to the health and safety of employees, or to the parts of those reports, studies and tests that relate to the health and safety of employees, but shall not have access to the medical records of any person except with the person's consent.

Time required for duties

(8) A health and safety representative is entitled to take the time required, during their regular working hours,

(a) to perform any of the representative's functions; and

(b) for the purposes of preparation and travel, as authorized by both chairpersons of the policy committee or, if there is no policy committee, as authorized by the employer.

Payment of wages

(9) A health and safety representative shall be compensated by the employer for the functions described in paragraphs (8)(a) and (b), whether performed during or outside the representative's regular working hours, at the representative's regular rate of pay or premium rate of pay, as specified in the collective agreement or, if there is no collective agreement, in accordance with the employer's policy.

Limitation of liability

(10) No health and safety representative is personally liable for anything done or omitted to be done by the representative in good faith under the authority or purported authority of this section.

Regulations

(11) The Governor in Council may make regulations specifying

(a) the qualifications and term of office of a health and safety representative;

(b) the method of selecting a health and safety representative if employees are not represented by a trade union; and

(c) the manner in which a health and safety representative may exercise their powers and perform their functions.

R.S., 1985, c. L-2, s. 136; R.S., 1985, c. 9 (1st Supp.), s. 4; 2000, c. 20, s. 10.

[Committees or representatives for certain work places](#)

137. Notwithstanding sections 135 and 136, if an employer controls more than one work place referred to in section 135 or 136 or the size or nature of the operations of the employer or those of the work place precludes the effective functioning of a single work place committee or health and safety representative, as the case may be, for those work places, the employer shall, subject to the approval or in accordance with the direction of a health and safety officer, establish or appoint in accordance with section 135 or 136, as the case may require, a work place committee or health and safety representative for the work places that are specified in the approval or direction.

R.S., 1985, c. L-2, s. 137; R.S., 1985, c. 9 (1st Supp.), s. 4; 2000, c. 20, s. 10.

Coal Mining Safety Commission

[Establishment of Commission](#)

137.1 (1) There is hereby established a Coal Mining Safety Commission, in this section referred to as the "Commission" consisting of, subject to subsection (2.1),

not more than five members to be appointed by the Minister to hold office during pleasure.

Members of Commission	(2) One member of the Commission shall be designated chairperson of the Commission by the Minister and the others shall be equally representative of the non-supervisory employees employed in coal mines and of the employers of those employees.
Alternate chairperson	(2.1) The Minister may appoint, by order, and under the terms and conditions specified in the order, any person as an alternate chairperson to act in the absence or incapacity of the chairperson. An alternate chairperson, while acting as chairperson, has all of the powers, duties and immunity of the chairperson.
Selection and tenure	(3) The manner of selection of the members of the Commission, other than the chairperson and an alternate chairperson, and the term of office of the members of the Commission shall be such as may be prescribed.
Quorum	(4) A quorum of the Commission consists of the chairperson or alternate chairperson, one member representative of non-supervisory employees and one member representative of employers.
Health and safety officers ineligible	(5) No health and safety officer is eligible to be appointed to the Commission or as alternate chairperson under subsection (2.1), or to be designated for the purposes of subsection 137.2(1) or (2).
Remuneration	(6) The members of the Commission, including an alternate chairperson, shall be paid the remuneration that may be fixed by the Governor in Council and, subject to the approval of the Treasury Board, any reasonable travel and living expenses that are incurred by them while performing their functions away from their ordinary place of residence.
By-laws	(7) The Commission may, subject to the approval of the Minister, make by-laws for the conduct of its activities.
Staff and other assistance	(8) The Minister may, at the request of the Commission, make available to the Commission such staff and other assistance as are necessary for the proper conduct of its activities.
Annual report	(9) The Commission shall, within sixty days following the end of each calendar year, submit a report to the Minister of its activities during the year.
Immunity	(10) No member of the Commission and no person designated by the Commission pursuant to subsection 137.2(1) or (2) is personally liable for anything done or omitted to be done in good faith under section 137.2.

R.S., 1985, c. 26 (4th Supp.), s. 3; 1998, c. 26, s. 59(E); 2000, c. 20, s. 11.

[Approval of plans, procedures](#)

137.2 (1) The Commission or persons designated by the Commission for the purposes of this subsection may approve in writing, with or without modification, plans or procedures submitted in accordance with paragraph 125.3

(1)(d).

Approval of methods,
machinery, equipment

(2) On the application of an employer, the Commission or persons designated by the Commission for the purposes of this subsection may, if, in the opinion of the Commission or those persons, protection of the health and safety of employees would not thereby be diminished,

(a) approve in writing the use by the employer in coal mines of mining methods, machinery or equipment in respect of which no prescribed safety standards are applicable; or

(b) approve in writing, notwithstanding anything in this Part, the use by the employer in coal mines, for a specified time and subject to specified conditions, of any mining method, machinery or equipment that does not meet prescribed safety standards applicable in respect of it.

Exemptions and
substitutions

(3) On the application of an employer, the Commission may, if in its opinion protection of the health and safety of employees would not thereby be diminished, by order,

(a) exempt the employer from compliance with any provision of the regulations in the operation of coal mines controlled by the employer, subject to any conditions contained in the order; or

(b) substitute for any provision of the regulations, so far as it applies to coal mines controlled by the employer, another provision having substantially the same purpose and effect.

Recommendations for
amendments

(4) The Commission may make recommendations to the Minister for amending or revoking any provision of the regulations applicable to coal mines or for adding any provision thereto.

R.S., 1985, c. 26 (4th Supp.), s. 3; 2000, c. 20, s. 12.

[\[Next\]](#)

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