1978

c 83 The Occupational Health and Safety Act, 1978

Ontario
CHAPTER 83

An Act respecting the Occupational Health and Occupational Safety of Workers

Assented to December 15th, 1978

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,
   1. "committee" means a joint health and safety committee established under this Act; 1976, c. 79, s. 1 (a), amended.

2. "competent person" means a person who,
   i. is qualified because of his knowledge, training and experience to organize the work and its performance,
   ii. is familiar with the provisions of this Act and the regulations that apply to the work, and
   iii. has knowledge of any potential or actual danger to health or safety in the work place; New.

3. "construction" includes erection, alteration, repair, dismantling, demolition, structural maintenance, painting, land clearing, earth moving, grading, excavating, trenching, digging, boring, drilling, blasting, or concreting, the installation of any machinery or plant, and any work or undertaking in connection with a project; 1973, c. 47, s. 1 (d), amended.

4. "constructor" means a person who undertakes a project for an owner and includes an owner who undertakes all or part of a project by himself or by more than one employer; 1973, c. 47, s. 1 (e), amended.
5. "Deputy Minister" means the Deputy Minister of Labour; 1973, c. 47, s. 1 (f).

6. "designated substance" means a biological, chemical or physical agent or combination thereof prescribed as a designated substance to which the exposure of a worker is prohibited, regulated, restricted, limited or controlled; New.

7. "Director" means an inspector who is appointed under this Act as a Director of the Occupational Health and Safety Division of the Ministry; 1971, c. 43, s. 1 (da); 1972, c. 122, s. 1, amended.

8. "employer" means a person who employs one or more workers or contracts for the services of one or more workers and includes a contractor or subcontractor who performs work or supplies services and a contractor or subcontractor who undertakes with an owner, constructor, contractor or subcontractor to perform work or supply services; 1971, c. 43, s. 1 (c); 1973, c. 47, s. 1 (h), amended.

9. "engineer of the Ministry" means a person who is employed by the Ministry and who is registered as a professional engineer or licensed as a professional engineer under The Professional Engineers Act; 1971, c. 43, s. 1 (g), amended.

10. "factory" means,

   i. a building or place other than a mine, mining plant or place where homework is carried on, where,

   A. any manufacturing process or assembling in connection with the manufacturing of any goods or products is carried on,

   B. in preparing, inspecting, manufacturing, finishing, repairing, warehousing, cleaning or adapting for hire or sale any substance, article or thing, energy is,

   1. used to work any machinery or device, or

   2. modified in any manner,
C. any work is performed by way of trade or for the purposes of gain in or incidental to the making of any goods, substance, article or thing or part thereof,

D. any work is performed by way of trade or for the purposes of gain in or incidental to the altering, demolishing, repairing, maintaining, ornamenting, finishing, storing, cleaning, washing or adapting for sale of any goods, substance, article or thing, or

E. aircraft, locomotives or vehicles used for private or public transport are maintained,

ii. a laundry including a laundry operated in conjunction with,

A. a public or private hospital,

B. a hotel, or

C. a public or private institution for religious, charitable or educational purposes, and

iii. a logging operation; 1971, c. 43, s. 1 (h), amended.

11. "health and safety representative" means a health and safety representative selected under this Act; 1976, c. 79, s. 1 (d), amended.

12. "homework" means the doing of any work in the manufacture, preparation, improvement, repair, alteration, assembly or completion of any article or thing or any part thereof by a person for wages in premises occupied primarily as living accommodation; 1971, c. 43, s. 1 (i).

13. "industrial establishment" means an office building, factory, arena, shop or office, and any land, buildings and structures appertaining thereto; 1971, c. 43, s. 1 (j); 1974, c. 104, s. 1 (t), amended.

14. "inspector" means an inspector appointed for the purposes of this Act and includes a Director; 1971, c. 43, s. 1 (k); 1973, c. 47, s. 1 (i), amended.
15. "logging" means the operation of felling or trimming trees for commercial or industrial purposes and includes the measuring, storing, transporting or floating of logs and any such activities for the clearing of land; 1971, c. 43, s. 1 (kb); 1974, c. 104, s. 1 (2), amended.

16. "mine" means any work or undertaking for the purpose of opening up, proving, removing or extracting any metallic or non-metallic mineral or mineral-bearing substance, rock, earth, clay, sand or gravel; R.S.O. 1970, c. 274, s. 169 (1) (d), amended.

17. "mining plant" means any roasting or smelting furnace, concentrator, mill or place used for or in connection with washing, crushing, grinding, sifting, reducing, leaching, roasting, smelting, refining, treating or research on any substance mentioned in paragraph 16; R.S.O. 1970, c. 274, s. 169 (1) (g), amended.

18. "Minister" means the Minister of Labour; 1971, c. 43, s. 1 (l); 1973, c. 47, s. 1 (j).

19. "Ministry" means the Ministry of Labour;

20. "occupational illness" means a condition that results from exposure in a work place to a physical, chemical or biological agent to the extent that the normal physiological mechanisms are affected and the health of the worker is impaired thereby and includes an industrial disease as defined by The Workmen's Compensation Act; New.

21. "owner" includes a trustee, receiver, mortgagee in possession, tenant, lessee, or occupier of any lands or premises used or to be used as a work place, and a person who acts for or on behalf of an owner as his agent or delegate; R.S.O. 1970, c. 274, s. 1, par. 18; 1971, c. 43, s. 1 (n); 1973, c. 47, s. 1 (l), amended.

22. "prescribed" means prescribed by a regulation made under this Act; New.

23. "project" means a construction project, whether public or private, including,

i. the construction of a building, bridge, structure, industrial establishment, mining plant, shaft, tunnel, caisson, trench, excavation, highway, railway, street, runway, parking
lot, cofferdam, conduit, sewer, watermain, service connection, telegraph, telephone or electrical cable, pipe line, duct or well, or any combination thereof,

ii. mining development,

iii. the moving of a building or structure, and

iv. any work or undertaking, or any lands or appurtenances used in connection with construction; 1973, c. 47, s. 1 (n), amended.

24. "regulations" means the regulations made under this Act; 1971, c. 43, s. 1 (r); 1973, c. 47, s. 1 (o), amended.

25. "shop" means a building, booth or stall or a part of such building, booth or stall where goods are handled, exposed or offered for sale or where services are offered for sale; 1971, c. 43, s. 1 (s), amended.

26. "supervisor" means a person who has charge of a work place or authority over a worker; New.

27. "trade union" means a trade union as defined in The Labour Relations Act that has the status of exclusive bargaining agent under that Act in respect of any bargaining unit or units in a work place and includes an organization representing workers or persons to whom this Act applies where such organization has exclusive bargaining rights under any other Act in respect of such workers or persons; 1976, c. 79, s. 1 (g), amended.

28. "work place" means any land, premises, location or thing at, upon, in or near which a worker works; New.

29. "worker" means a person who performs work or supplies services for monetary compensation but does not include,

i. an inmate of a correctional institution or like institution or facility who participates inside the institution or facility in a work project or rehabilitation program, or

ii. a patient who participates in a work or rehabilitation program in a psychiatric institution, mental health or retardation centre or
home, or rehabilitation facility. 1973, c. 47, s. 1 (t), amended.

PART I
APPLICATION

Application to Crown

2.—(1) This Act binds the Crown and applies to an employee in the service of the Crown or an agency, board, commission or corporation that exercises any function assigned or delegated to it by the Crown. 1971, c. 43, s. 3; 1973, c. 47, s. 2 (1), amended.

Application of other Acts

(2) Notwithstanding anything in any general or special Act, the provisions of this Act and the regulations prevail. 1976, c. 79, s. 11.

Application to private residences

3.—(1) This Act does not apply to work performed by the owner or occupant or a servant of the owner or occupant to, in or about a private residence or the lands and appurtenances used in connection therewith.

Farming operations

(2) Except as shall be prescribed and subject to the conditions and limitations prescribed, this Act or a Part thereof does not apply to farming operations.

Teachers, etc

(3) Except as shall be prescribed and subject to the conditions and limitations prescribed, this Act or a Part thereof does not apply to,

(a) a person who is employed as a teacher as defined in The Education Act, 1974; or

(b) a person who is employed as a member or teaching assistant of the academic staff of a university or a related institution. New.

PART II
ADMINISTRATION

Delegation of powers

4. Where under this Act or the regulations any power or duty is granted to or vested in the Minister or the Deputy Minister, the Minister or Deputy Minister may in writing
delegate that power or duty from time to time to any officer or officers of the Ministry subject to such limitations, restrictions, conditions and requirements as the Minister or Deputy Minister may set out in the delegation. New.

5.—(1) Such persons as may be necessary to administer and enforce this Act and the regulations may be appointed as inspectors by the Deputy Minister and the Deputy Minister may designate one or more of the inspectors as a Director or Directors. 1971, c. 43, s. 6 (1, 2); 1973, c. 47, s. 4 (1, 2), amended.

(2) A Director may exercise any of the powers or perform any of the duties of an inspector under this Act or the regulations. New.

6.—(1) The Deputy Minister shall issue a certificate of appointment, bearing his signature or a facsimile thereof, to every inspector.

(2) Every inspector, in the exercise of any of his powers or duties under this Act, shall produce his certificate of appointment upon request. 1971, c. 43, s. 7; 1973, c. 47, s. 5, amended.

7.—(1) Where the number of workers at a project regularly exceeds twenty, the constructor shall cause the workers to select at least one health and safety representative from among the workers on the project who do not exercise managerial functions. New.

(2) Where no committee has been established under section 8, or where the number of workers at a project does not regularly exceed twenty, the Minister may, by order in writing, require a constructor or an employer to cause the selection of one or more health and safety representatives for a work place or a part or parts thereof from among the workers employed at the work place or in the part or parts thereof who do not exercise managerial functions, and may provide in the order for the qualifications of such representative or representatives.

(3) The Minister may from time to time give such directions as the Minister considers advisable concerning the carrying out of the functions of a health and safety representative. 1976, c. 79, s. 5 (1), amended.

(4) In exercising the power conferred by subsection 2, the Minister shall consider the matters set out in subsection 4 of section 8. New.
Selection of health and safety representative

(5) The selection of a health and safety representative shall be made by those workers who do not exercise managerial functions and who will be represented by the health and safety representative in the work place, or the part or parts thereof, as the case may be, or, where there is a trade union or trade unions representing such workers, by the trade union or trade unions.

Powers of representative

(6) A health and safety representative may inspect the physical condition of the work place or the part or parts thereof for which he has been selected, as the case may be, not more often than once a month or at such intervals as a Director may direct, and it is the duty of the employer and the workers to afford the health and safety representative such information and assistance as may be required for the purpose of carrying out the inspection.

(Idem)

(7) A health and safety representative has power to identify situations that may be a source of danger or hazard to workers and to make recommendations or report his findings thereon to the employer, the workers and the trade union or trade unions representing the workers.

Notice of accident, inspection by representative

(8) Where a person is killed or critically injured at a work place from any cause, the health and safety representative may, subject to subsection 2 of section 25, inspect the place where the accident occurred and any machine, device or thing, and shall report his findings in writing to a Director.

Entitlement to time from work

(9) A health and safety representative is entitled to take such time from his work as is necessary to carry out his duties under subsections 6 and 8 and the time so spent shall be deemed to be work time for which he shall be paid by his employer at his regular or premium rate as may be proper. 1976, c. 79, s. 5 (2-6), amended.

Additional powers of certain health and safety representatives

(10) A health and safety representative or representatives of like nature appointed or selected under the provisions of a collective agreement or other agreement or arrangement between the constructor or the employer and the workers, has, in addition to his functions and powers under the provisions of the collective agreement or other agreement or arrangement the functions and powers conferred upon a health and safety representative by subsections 6, 7 and 8. New.

Application

8.—(1) Subject to subsection 3, this section does not apply,

(a) to a constructor or an employer who undertakes to perform work or supply services on a project; or
(b) to an employer in respect of those workers who work,

(i) in that part or those parts of a building used for office purposes,

(ii) in a shop where goods or services are sold or offered for sale to the public, except any part used as a factory,

(iii) in a building used for multiple residential accommodation,

(iv) in a library, museum or art gallery,

(v) in a restaurant, hotel, motel or premises for which a licence or permit has been issued under The Liquor Licence Act, 1975 except that part used as a kitchen or laundry,

(vi) in a theatre or place of public entertainment, or

(vii) in premises occupied and used by a fraternal or social organization or a private club.

(2) Subject to subsection 3, where,

(a) twenty or more workers are regularly employed at a work place;

(b) a regulation made in respect of a designated substance applies to a work place; or

(c) an order to an employer is in effect under section 20,

the employer shall cause a joint health and safety committee to be established and maintained at the work place unless the Minister is satisfied that a committee of like nature or an arrangement, program or system in which the workers participate is, on the date this Act comes into force, established and maintained pursuant to a collective agreement or other agreement or arrangement and that such committee, arrangement, program or system provides benefits for the health and safety of the workers equal to, or greater than, the benefits to be derived under a committee established under this section.

(3) Notwithstanding subsections 1 and 2, the Minister may, by order in writing, require a constructor or an em-
employer to establish and maintain one or more joint health and safety committees for a work place or a part thereof, and may, in such order, provide for the composition, practice and procedure of any committee so established. New.

(4) In exercising the power conferred by subsection 3, the Minister shall consider,

(a) the nature of the work being done;

(b) the request of a constructor, an employer, a group of the workers or the trade union or trade unions representing the workers in a work place;

(c) the frequency of illness or injury in the work place or in the industry of which the constructor or employer is a part;

(d) the existence of health and safety programs and procedures in the work place and the effectiveness thereof; and

(e) such other matters as the Minister considers advisable.

1976, c. 79, s. 4 (3), amended.

(5) A committee shall consist of at least two persons of whom at least half shall be workers who do not exercise managerial functions to be selected by the workers they are to represent or, where there is a trade union or trade unions representing such workers, by the trade union or trade unions.

(6) It is the function of a committee and it has power to,

(a) identify situations that may be a source of danger or hazard to workers;

(b) make recommendations to the constructor or employer and the workers for the improvement of the health and safety of workers;

(c) recommend to the constructor or employer and the workers the establishment, maintenance and monitoring of programs, measures and procedures respecting the health or safety of workers; and

(d) obtain information from the constructor or employer respecting,

(i) the identification of potential or existing hazards of materials, processes or equipment, and

(ii) health and safety experience and work practices and standards in similar or other indus-
tries of which the constructor or employer has knowledge. 1976, c. 79, s. 4 (4), amended.

(7) A committee shall maintain and keep minutes of its proceedings and make the same available for examination and review by an inspector.

(8) The members of a committee who represent workers shall designate one of the members representing workers to inspect the physical condition of the work place, not more often than once a month or at such intervals as a Director may direct, and it is the duty of the employer and the workers to afford that member such information and assistance as may be required for the purpose of carrying out the inspection.

(9) The members of a committee who represent workers shall designate one or more such members to investigate cases where a worker is killed or critically injured at a work place from any cause and one of those members may, subject to subsection 2 of section 25, inspect the place where the accident occurred and any machine, device or thing, and shall report his findings to a Director and to the committee. New.

(10) A constructor or an employer required to establish a committee under this section shall post and keep posted at the work place the names and work locations of the committee members in a conspicuous place or places where they are most likely to come to the attention of the workers.

(11) A committee shall meet at least once every three months at the work place and may be required to meet by order of the Minister. 1976, c. 79, s. 4 (6, 7), amended.

(12) A member of a committee is entitled to such time from his work as is necessary to attend meetings of the committee and to carry out his duties under subsections 8 and 9 and the time so spent shall be deemed to be work time for which he shall be paid by his employer at his regular or premium rate as may be proper. 1976, c. 79, s. 4 (8), amended.

(13) Any committee of a like nature to a committee established under this section in existence in a work place under the provisions of a collective agreement or other agreement or arrangement between a constructor or an employer and the workers, has, in addition to its functions and powers under the provisions of the collective agreement or other agreement or arrangement, the functions and powers conferred upon a committee by this section.
(14) Where a dispute arises as to the application of subsection 2, or the compliance or purported compliance therewith by an employer, the dispute shall be decided by the Minister after consulting the employer and the workers or the trade union or trade unions representing the workers. *New.*

9.—(1) For work places to which *The Workmen's Compensation Act* applies, the Workmen's Compensation Board, upon the request of an employer, a worker, committee, health and safety representative or trade union, shall send to the employer, and to the worker, committee, health and safety representative or trade union requesting the information an annual summary of data relating to the employer in respect of the number of work accident fatalities, the number of lost workday cases, the number of lost workdays, the number of non-fatal cases that required medical aid without lost workdays, the incidents of occupational illnesses, the number of occupational injuries, and such other data as the Board may consider necessary or advisable.

(2) Upon receipt of the annual summary, the employer shall cause a copy thereof to be posted in a conspicuous place or places at the work place where it is most likely to come to the attention of the workers. 1976, c. 79, s. 8, amended.

(3) A Director shall, in accordance with the objects and purposes of this Act, ensure that persons and organizations concerned with the purposes of this Act are provided with information and advice pertaining to its administration and to the protection of the occupational health and occupational safety of workers generally. *New.*

10.—(1) There shall be a council to be known as the Advisory Council on Occupational Health and Occupational Safety composed of not fewer than twelve and not more than twenty members appointed by the Lieutenant Governor in Council on the recommendation of the Minister.

(2) The members of the Advisory Council shall be appointed for such term as the Lieutenant Governor in Council determines and shall be representative of management, labour and technical or professional persons and the public who are concerned with and have knowledge of occupational health and occupational safety.

(3) The Lieutenant Governor in Council shall designate a chairman and a vice-chairman of the Advisory Council from among the members appointed.
(4) The Lieutenant Governor in Council may fill any vacancy that occurs in the membership of the Advisory Council.

(5) The remuneration and expenses of the members of the Advisory Council shall be determined by the Lieutenant Governor in Council and shall be paid out of the moneys appropriated therefor by the Legislature.

(6) The Advisory Council, with the approval of the Minister, may make rules and pass resolutions governing its procedure, including the calling of meetings, the establishment of a quorum, and the conduct of meetings.

(7) The function of the Advisory Council is and it has power,

(a) to make recommendations to the Minister relating to programs of the Ministry in occupational health and occupational safety; and

(b) to advise the Minister on matters relating to occupational health and occupational safety which may be brought to its attention or be referred to it.

(8) The Advisory Council shall file with the Minister not later than the 1st day of June in each year an annual report upon the affairs of the Advisory Council.

(9) The Minister shall submit the report to the Lieutenant Governor in Council who shall cause the report to be laid before the Assembly if it is in session or, if not, at the next ensuing session. New.

11.—(1) The Minister may appoint committees, which are not committees as defined in paragraph 1 of section 1, or persons to assist or advise the Minister on any matter arising under this Act or to inquire into and report to the Minister on any matter that the Minister considers advisable.

(2) Any person appointed under subsection 1 who is not an officer in the public service of the Province of Ontario may be paid such remuneration and expenses as may be from time to time fixed by the Lieutenant Governor in Council. New.

12.—(1) The Lieutenant Governor in Council may fix an amount that shall be assessed and levied by the Workmen's Compensation Board upon employers in Schedules 1.
and 2 under The Workmen's Compensation Act to defray the expenses of the administration of this Act and the regulations and such amount shall not exceed $4,000,000 for the fiscal year in which this Act comes into force and shall be subject to increase in each subsequent fiscal year by a sum not exceeding 10 per cent of the amount fixed for the preceding fiscal year.

(2) The Workmen's Compensation Board shall add to the assessments and levies made under The Workmen's Compensation Act upon employers in Schedules 1 and 2 a sum calculated as a percentage of the assessments and levies and which percentage shall be determined as the proportion that the amount fixed under subsection 1 bears to the total sum that the Workmen's Compensation Board fixes and determines to be assessed for payment by employers in Schedules 1 and 2, and The Workmen's Compensation Act applies to such sum and to the collection and payment thereof in the same manner as to an assessment and levy made under that Act.

(3) The Workmen's Compensation Board shall collect the assessment and levy imposed under this section and shall pay the amounts so collected to the Treasurer of Ontario. 1973, c. 47, s. 29, amended.

PART III

DUTIES OF A CONSTRUCTOR, EMPLOYER, SUPERVISOR, WORKER, OWNER AND SUPPLIER

13. — (1) A constructor shall ensure, on a project undertaken by the constructor that,

(a) the measures and procedures prescribed by this Act and the regulations are carried out on the project;

(b) every employer and every worker performing work on the project complies with this Act and the regulations; and

(c) the health and safety of workers on the project is protected. 1973, c. 47, s. 14 (3), amended.

(2) Where so prescribed, a constructor shall, before commencing any work on a project, give to a Director notice in writing of the project containing such information as may be prescribed. New.

14. — (1) An employer shall ensure that,
(a) the equipment, materials and protective devices as prescribed are provided;

(b) the equipment, materials and protective devices provided by him are maintained in good condition;

(c) the measures and procedures prescribed are carried out in the work place;

(d) the equipment, materials and protective devices provided by him are used as prescribed; and

(e) a floor, roof, wall, pillar, support or other part of a work place is capable of supporting all loads to which it may be subjected without causing the materials therein to be stressed beyond the allowable unit stresses established under The Building Code Act, 1974, c. 71, 1974.

(2) Without limiting the strict duty imposed by sub-idem section 1, an employer shall,

(a) provide information, instruction and supervision to a worker to protect the health or safety of the worker;

(b) when appointing a supervisor, appoint a competent person;

(c) acquaint a worker or a person in authority over a worker with any hazard in the work and in the handling, storage, use, disposal and transport of any article, device, equipment or a biological, chemical or physical agent;

(d) afford assistance and co-operation to a committee and a health and safety representative in the carrying out by the committee and the health and safety representative of any of their functions;

(e) only employ in or about a work place a person over such age as may be prescribed;

(f) not knowingly permit a person who is under such age as may be prescribed to be in or about a work place;

(g) take every precaution reasonable in the circumstances for the protection of a worker; and

(h) post, in the work place, a copy of this Act and any explanatory material prepared by the Ministry, both in English and the majority language of the
work place, outlining the rights, responsibilities and duties of workers.

(3) For the purposes of clause b of subsection 2, an employer may appoint himself as a supervisor where the employer is a competent person. 1971, c. 43, ss. 24 (1-3), part, 28 (1, 2); 1973, c. 47, s. 17 (1, 2), amended.

15.—(1) In addition to the duties imposed by section 14, an employer shall,

(a) establish an occupational health service for workers as prescribed;

(b) where an occupational health service is established as prescribed, maintain the same according to the standards prescribed;

(c) keep and maintain accurate records of the handling, storage, use and disposal of biological, chemical or physical agents as prescribed;

(d) accurately keep and maintain and make available to the worker affected such records of the exposure of a worker to biological, chemical or physical agents as may be prescribed;

(e) notify a Director of the use or introduction into a work place of such biological, chemical or physical agents as may be prescribed;

(f) monitor at such time or times or at such interval or intervals the levels of biological, chemical or physical agents in a work place and keep and post accurate records thereof as prescribed;

(g) comply with a standard limiting the exposure of a worker to biological, chemical or physical agents as prescribed;

(h) where so prescribed, only permit a worker to work or be in a work place who has undergone such medical examinations, tests or x-rays as prescribed and who is found to be physically fit to do the work in the work place; and

(i) where so prescribed, provide a worker with written instructions as to the measures and procedures to be taken for the protection of a worker.

(2) For the purposes of clause a of subsection 1, a group of employers, with the approval of a Director, may act as an employer. New.
16.—(1) A supervisor shall ensure that a worker,
(a) works in the manner and with the protective devices, measures and procedures required by this Act and the regulations; and
(b) uses or wears the equipment, protective devices or clothing that his employer requires to be used or worn.
(2) Without limiting the duty imposed by subsection 1, a supervisor shall,
(a) advise a worker of the existence of any potential or actual danger to the health or safety of the worker of which the supervisor is aware;
(b) where so prescribed, provide a worker with written instructions as to the measures and procedures to be taken for protection of the worker, and
(c) take every precaution reasonable in the circumstances for the protection of a worker. R.S.O. 1970, c. 274, s. 177 (6); 1971, c. 43, s. 26; 1973, c. 47, s. 17 (1, 3), amended.

17.—(1) A worker shall,
(a) work in compliance with the provisions of this Act and the regulations;
(b) use or wear the equipment, protective devices or clothing that his employer requires to be used or worn;
(c) report to his employer or supervisor the absence of or defect in any equipment or protective device of which he is aware and which may endanger himself or another worker;
(d) report to his employer or supervisor any contravention of this Act or the regulations or the existence of any hazard of which he knows, and
(e) where so prescribed, have, at the expense of the employer, such medical examinations, tests or x-rays, at such time or times and at such place or places as prescribed.
(2) No worker shall,
(a) remove or make ineffective any protective device required by the regulations or by his employer, without providing an adequate temporary protective device and when the need for removing or making
(a) use or operate any equipment, machine, device or thing or work in a manner that may endanger himself or any other worker; or

(c) engage in any prank, contest, feat of strength, unnecessary running or rough and boisterous conduct. 1971, c. 43, ss. 27, 29, 31 (3); 1973, c. 47, ss. 18, 19, 20, amended.

18.—(1) The owner of a work place that is not a project shall,

(a) ensure that,

(i) such facilities as may be prescribed are provided,

(ii) any facilities prescribed to be provided are maintained as prescribed,

(iii) the work place complies with the regulations, and

(iv) no work place is constructed, developed, reconstructed, altered or added to except in compliance with this Act and the regulations; and

(b) where so prescribed, furnish to a Director any drawings, plans or specifications of any work place as prescribed. 1971, c. 43, s. 22.

(2) The owner of a mine shall cause drawings, plans or specifications to be maintained and kept up to a date not more than six months last past on such scale and showing such matters or things as may be prescribed. R.S.O. 1970, c. 274, s. 617, amended.

(3) Where so prescribed, an owner or employer shall,

(a) not begin any construction, development, reconstruction, alteration, addition or installation to or in a work place until the drawings, layout and specifications thereof and any alterations thereto have been filed with the Ministry for review by an engineer of the Ministry for compliance with this Act and the regulations; and

(b) keep a copy of the drawings as reviewed in a convenient location at or near the work place and
such drawings shall be produced by the owner or employer upon the request of an inspector for his examination and inspection. 1971, c. 43, s. 17 (1, 5), amended.

(4) An engineer of the Ministry may require the drawings, layout and specifications to be supplemented by the owner or employer with additional information. 1971, c. 43, s. 17 (3) (b), amended.

(5) Fees as prescribed for the filing and review of drawings, layout or specifications shall become due and payable by the owner or employer upon filing. 1971, c. 43, s. 17 (6), amended.

19. Every person who supplies any machine, device, tool or equipment under any rental, leasing or similar arrangement for use in or about a work place shall ensure,

(a) that the machine, device, tool or equipment is in good condition;

(b) that the machine, device, tool or equipment complies with this Act and the regulations; and

(c) if it is his responsibility under the rental, leasing or similar arrangement to do so, that the machine, device, tool or equipment is maintained in good condition. 1971, c. 43, s. 30; 1973, c. 47, s. 24 (2), amended.

PART IV

TOXIC SUBSTANCES

20.—(1) Where a biological, chemical or physical agent or combination of such agents is used or intended to be used in the work place and its presence in the work place or the manner of its use is in the opinion of a Director likely to endanger the health of a worker, the Director shall by notice in writing to the employer order that the use, intended use, presence or manner of use be,

(a) prohibited;

(b) limited or restricted in such manner as the Director specifies; or

(c) subject to such conditions regarding administrative control, work practices, engineering control and time limits for compliance as the Director specifies.
(2) Where a Director makes an order to an employer under subsection 1, the order shall,

(a) identify the biological, chemical or physical agent, or combination of such agents, and the manner of use that is the subject-matter of the order; and

(b) state the opinion of the Director as to the likelihood of the danger to the health of a worker, and his reasons in respect thereof, including the matters or causes which give rise to his opinion.

(3) The employer shall provide a copy of an order made under subsection 1 to the committee, health and safety representative and trade union, if any, and shall cause a copy of the order to be posted in a conspicuous place in the workplace where it is most likely to come to the attention of the workers who may be affected by the use, presence or intended use of the biological, chemical or physical agent or combination of agents.

(4) Where the employer, a worker or a trade union considers that he or it is aggrieved by an order made under subsection 1, the employer, worker or trade union may by notice in writing given within fourteen days of the making of the order appeal to the Minister.

(5) The Minister may, having regard to the circumstances, direct that an appeal under subsection 4 be determined on his behalf by a person appointed by him for that purpose.

(6) The Minister or, where a person has been appointed under subsection 5, the person so appointed, may give such directions and issue such orders as he considers proper or necessary concerning the procedures to be adopted or followed and shall have all the powers of a chairman of a board of arbitration under subsection 7 of section 37 of The Labour Relations Act.

(7) On an appeal, the Minister or, where a person has been appointed under subsection 5, the person so appointed, may substitute his findings for those of the Director and may rescind or affirm the order appealed from or make a new order in substitution therefor and such order shall stand in the place of and have the like effect under this Act and the regulations as the order of the Director, and such order shall be final and not subject to appeal under this section.
(8) In making a decision or order under subsection 1 or subsection 7, a Director, the Minister, or, where a person has been appointed under subsection 5, the person so appointed, shall consider as relevant factors,

(a) the relation of the agent, combination of agents or by-product to a biological or chemical agent that is known to be a danger to health;

(b) the quantities of the agent, combination of agents or by-product used or intended to be used or present;

(c) the extent of exposure;

(d) the availability of other processes, agents or equipment for use or intended use;

(e) data regarding the effect of the process or agent on health; and

(f) any criteria or guide with respect to the exposure of a worker to a biological, chemical or physical agent or combination of such agents that are adopted by a regulation.

(9) On an appeal under subsection 4, the Minister or, where a person has been appointed under subsection 5, the person so appointed, may suspend the operation of the order appealed from pending the disposition of the appeal.

(10) A person appointed under subsection 5 shall be paid such remuneration and expenses as the Minister, with the approval of the Lieutenant Governor in Council, may determine.

(11) This section does not apply to designated substances.

(12) A Director is not required to hold or afford to an employer or any other person an opportunity for a hearing before making an order under subsection 1.

(21) Except for purposes of research and development, no person shall,

(a) manufacture;

(b) distribute; or

(c) supply,
for commercial or industrial use in a work place any new biological or chemical agent or combination of such agents unless he first submits to a Director notice in writing of his intention to manufacture, distribute or supply such new agent or combination of such agents and the notice shall include the ingredients of such new agent or combination of agents and their common or generic name or names and the composition and properties thereof.

(2) Where in the opinion of the Director, which opinion shall be made promptly, the introduction of the new biological or chemical agent or combination of such agents referred to in subsection 1 may endanger the health or safety of the workers in a work place, the Director shall require the manufacturer, distributor or supplier, as the case may be, to provide, at the expense of the manufacturer, distributor or supplier, a report or assessment, made or to be made by a person possessing such special, expert or professional knowledge or qualifications as are specified by the Director, of the agent or combination of agents intended to be manufactured, distributed or supplied and the manner of use including, the matters referred to in subclauses i to vii of clause l of subsection 1 of section 28.

(3) For the purpose of this section, "new biological or chemical agent or combination of such agents" means any such agent or combination of such agents other than those used in one or more work places and included in an inventory compiled or adopted by the Ministry. New.

22. Prior to a substance being designated under paragraph 14 of subsection 2 of section 41, the Minister,

(a) shall publish in The Ontario Gazette a notice stating that the substance may be designated and calling for briefs or submissions in relation to the designation; and

(b) shall publish in The Ontario Gazette a notice setting forth the proposed regulation relating to the designation of the substance at least sixty days before the regulation is filed with the Registrar of Regulations. New.

PART V

REFUSAL TO WORK WHERE HEALTH OR SAFETY IN DANGER

23.—(1) This section does not apply to,

(a) a person employed in, or who is a member of a police force, to which The Police Act applies;
(b) a full-time fire fighter as defined in The Fire Departments Act; or

(c) a person employed in the operation of a correctional institution or facility, training school or centre, detention and observation home, or other similar institution, facility, school or home.

(2) Where circumstances are such that the life, health or safety of another person or the public may be in imminent jeopardy, this section does not apply to a person employed in the operation of any of the following institutions, facilities or services whether granted aid out of moneys appropriated by the Legislature or not and whether operated for private gain or not:

1. A hospital, sanatorium, nursing home, home for the aged, psychiatric institution, mental health or mental retardation centre or a rehabilitation facility.

2. A residential group home or other facility for persons with behavioural or emotional problems or a physical, mental or developmental handicap.

3. An ambulance service or a first aid clinic or station.

4. A laboratory operated by the Crown or a laboratory licensed under The Public Health Act.

5. Any laundry, food service, power plant or technical service or facility belonging to, or used in conjunction with, any institution, facility or service referred to in paragraphs 1 to 4. New.

(3) A worker may refuse to work or do particular work where he has reason to believe that,

(a) any equipment, machine, device or thing he is to use or operate is likely to endanger himself or another worker;

(b) the physical condition of the work place or the part thereof in which he works or is to work is likely to endanger himself; or

(c) any equipment, machine, device or thing he is to use or operate or the physical condition of the work place or the part thereof in which he works or is to work is in contravention of this Act or the regulations and such contravention is likely to endanger himself or another worker.

(4) Upon refusing to work or do particular work, the worker shall promptly report the circumstances of his refusal.
to his employer or supervisor who shall forthwith investigate the report in the presence of the worker and, if there is such, in the presence of one of,

(a) a committee member who represents workers, if any;

(b) a health and safety representative, if any; or

(c) a worker who because of his knowledge, experience and training is selected by a trade union that represents the worker, or if there is no trade union, is selected by the workers to represent them,

who shall be made available and who shall attend without delay.

(5) Until the investigation is completed, the worker shall remain in a safe place near his work station. 1971, c. 43, s. 31 (1, 2); 1976, c. 79, s. 5 (1), amended.

(6) Where, following the investigation or any steps taken to deal with the circumstances that caused the worker to refuse to work or do particular work, the worker has reasonable grounds to believe that,

(a) the equipment, machine, device or thing that was the cause of his refusal to work or do particular work continues to be likely to endanger himself or another worker;

(b) the physical condition of the work place or the part thereof in which he works continues to be likely to endanger himself; or

(c) any equipment, machine, device or thing he is to use or operate or the physical condition of the work place or the part thereof in which he works or is to work is in contravention of this Act or the regulations and such contravention continues to be likely to endanger himself or another worker,

the worker may refuse to work or do the particular work and the employer or the worker or a person on behalf of the employer or worker shall cause an inspector to be notified thereof.

(7) An inspector shall investigate the refusal to work in the presence of the employer or a person representing the employer, the worker, and if there is such, the person mentioned in clause a, b or c of subsection 4.

(8) The inspector shall, following the investigation referred to in subsection 7, decide whether the machine, device,
thing or the work place or part thereof is likely to endanger the worker or another person. 1976, c. 79, s. 3 (2-4), amended.

(9) The inspector shall give his decision, in writing, as soon as is practicable, to the employer, the worker, and, if there is such, the person mentioned in clause a, b or c of subsection 4.

(10) Pending the investigation and decision of the inspector, the worker shall remain at a safe place near his work station during his normal working hours unless the employer, subject to the provisions of a collective agreement, if any,

(a) assigns the worker reasonable alternative work during such hours; or

(b) subject to section 24, where an assignment of reasonable alternative work is not practicable, gives other directions to the worker.

(11) Pending the investigation and decision of the inspector, no worker shall be assigned to use or operate the equipment, machine, device or thing or to work in the work place or the part thereof which is being investigated unless the worker to be so assigned has been advised of the refusal by another worker and the reason therefor.

(12) The time spent by a person mentioned in clause a, b or c of subsection 4 in carrying out his duties under subsections 4 and 7, shall be deemed to be work time for which the person shall be paid by his employer at his regular or premium rate as may be proper. New.

PART VI

REPRISALS BY EMPLOYER PROHIBITED

24.—(1) No employer or person acting on behalf of an employer shall,

(a) dismiss or threaten to dismiss a worker;

(b) discipline or suspend or threaten to discipline or suspend a worker;

(c) impose any penalty upon a worker; or

(d) intimidate or coerce a worker,

because the worker has acted in compliance with this Act or the regulations or an order made thereunder or has sought the enforcement of this Act or the regulations. 1971, c. 43, s. 24 (5); 1973, c. 47, s. 17 (4); 1976, c. 79, s. 9 (1), amended.
Arbitration

(2) Where a worker complains that an employer or person acting on behalf of an employer has contravened subsection 1, the worker may either have the matter dealt with by final and binding settlement by arbitration under a collective agreement, if any, or file a complaint with the Ontario Labour Relations Board in which case any regulations governing the practice and procedure of the Board apply, with all necessary modifications, to the complaint.

(3) The Ontario Labour Relations Board may inquire into any complaint filed under subsection 2, and section 79 of The Labour Relations Act, except subsection 4a, applies with all necessary modifications, as if such section, except subsection 4a, is enacted in and forms part of this Act.

(4) On an inquiry by the Ontario Labour Relations Board into a complaint filed under subsection 2, sections 91, 92, 95, 97 and 98 of The Labour Relations Act apply, with all necessary modifications.

(5) On an inquiry by the Ontario Labour Relations Board into a complaint filed under subsection 2, the burden of proof that an employer or person acting on behalf of an employer did not act contrary to subsection 1 lies upon the employer or the person acting on behalf of the employer.

(6) The Ontario Labour Relations Board shall exercise jurisdiction under this section on a complaint by a Crown employee that the Crown has contravened subsection 1.

(7) Where on an inquiry by the Ontario Labour Relations Board into a complaint filed under subsection 2, the Board determines that a worker has been discharged or otherwise disciplined by an employer for cause and the contract of employment or the collective agreement, as the case may be, does not contain a specific penalty for the infraction, the Board may substitute such other penalty for the discharge or discipline as to the Board seems just and reasonable in all the circumstances.

(8) Notwithstanding subsection 2, a person who is subject to a rule or code of discipline under The Police Act shall have his complaint in relation to an alleged contravention of subsection 1 dealt with under that Act. New.

PART VII
NOTICES

25.—(1) Where a person is killed or critically injured from any cause at a work place, the constructor, if any,
and the employer shall notify an inspector, and the committee, health and safety representative and trade union, if any, immediately of the occurrence by telephone, telegram or other direct means and the employer shall, within forty-eight hours after the occurrence, send to a Director a written report of the circumstances of the occurrence containing such information and particulars as the regulations may prescribe.

(2) Where a person is killed or is critically injured at a workplace no person shall, except for the purpose of,

(a) saving life or relieving human suffering;

(b) maintaining an essential public utility service or a public transportation system; or

(c) preventing unnecessary damage to equipment or other property,

interfere with, disturb, destroy, alter or carry away any wreckage, article or thing at the scene of or connected with the occurrence until permission so to do has been given by an inspector. R.S.O. 1970, c. 274, s. 612; 1971, c. 43, s. 33; 1973, c. 47, s. 25, amended.

26.—(1) Where an accident, explosion or fire causes injury to a person at a workplace whereby he is disabled from performing his usual work or requires medical attention, and such occurrence does not cause death or critical injury to any person, the employer shall give notice in writing, within four days of the occurrence, to a Director, and to the committee, health and safety representative and trade union, if any, containing such information and particulars as may be prescribed. R.S.O. 1970, c. 274, s. 613; 1971, c. 43, s. 34; 1973, c. 47, s. 30, amended.

(2) Where an employer is advised by a worker or by a person on behalf of the worker that the worker has or had an occupational illness, the employer shall give notice in writing, within four days of being so advised, to a Director and to the committee, health and safety representative and trade union, if any, containing such information and particulars as may be prescribed. 1971, c. 43, s. 34, part, amended.

(3) Subsection 2 applies, with all necessary modifications, where an employer is advised by a former worker of the employer or a person on behalf of such worker, that such worker has or had an occupational illness. New.

27. Where a notice or report is not required under section 25 or 26 and an accident, premature or unexpected
explosion, fire, flood or inrush of water, failure of any equipment, machine, device, article or thing, cave-in, subsidence, rockburst, or other incident as prescribed occurs at a project site, mine or mining plant, notice in writing of the occurrence shall be given to a Director and to the committee, health and safety representative and trade union, if any, by the constructor of the project or the owner of the mine or mining plant within two days of the occurrence containing such information and particulars as may be prescribed. R.S.O. 1970, c. 274, s. 614, amended.

PART VIII

ENFORCEMENT

28. — (1) An inspector may, for the purposes of carrying out his duties and powers under this Act and the regulations,

(a) subject to subsection 2, enter in or upon any work place at any time without warrant or notice;

(b) take up or use any machine, device, article, thing, material or biological, chemical or physical agent or part thereof;

(c) require the production of any drawings, specifications, licence, document, record or report, and inspect, examine and copy the same;

(d) upon giving a receipt therefor, remove any drawings, specifications, licence, document, record or report inspected or examined for the purpose of making copies thereof or extracts therefrom, and upon making copies thereof or extracts therefrom, shall promptly return the same to the person who produced or furnished them;

(e) conduct or take tests of any equipment, machine, device, article, thing, material or biological, chemical or physical agent in or about a work place and for such purposes, take and carry away such samples as may be necessary;

(f) in any inspection, examination, inquiry or test, be accompanied and assisted by or take with him any person or persons having special, expert or professional knowledge of any matter, take photographs, and take with him and use any equipment or materials required for such purpose;
(g) make inquiries of any person who is or was in a work place either separate and apart from another person or in the presence of any other person that are or may be relevant to an inspection, examination, inquiry or test;

(h) require that a work place or part thereof not be disturbed for a reasonable period of time for the purposes of carrying out an examination, investigation or test;

(i) require that any equipment, machine, device, article, thing or process be operated or set in motion or that a system or procedure be carried out that may be relevant to an examination, inquiry or test;

(j) require in writing an owner, constructor or employer to provide, at the expense of the owner, constructor or employer, a report bearing the seal and signature of a professional engineer stating,

(i) the load limits of a floor, roof or temporary work or part of a building, structure or temporary work,

(ii) that a floor, roof or temporary work is capable of supporting or withstanding the loads being applied to it or likely to be applied to it, or

(iii) that a floor, roof or temporary work, or part of a building, structure or temporary work is capable of supporting or withstanding all loads to which it may be subject without exceeding the allowable unit stresses for the materials used as provided under The Building Code Act, 1974;

(k) require in writing an owner of a mine or part thereof to provide, at his expense, a report in writing bearing the seal and signature of a professional engineer stating that the ground stability of, the mining methods and the support or rock reinforcement used in the mine or part thereof is such that a worker is not likely to be endangered; and R.S.O. 1970, c. 274, s. 618 (1) (a, b); 1971, c. 43, s. 8 (1); 1973, c. 47, s. 6 (1), amended.

(l) require in writing an employer to produce any record or information, or to provide, at the ex-
pense of the employer, a report or assessment, made or to be made by a person possessing such special, expert or professional knowledge or qualifications as are specified by the inspector, of any process or biological, chemical or physical agents or combination of such agents used or intended to be used in a work place, and the manner of use including,

(i) the ingredients thereof and their common or generic name or names,

(ii) the composition and the properties thereof,

(iii) the toxicological effect thereof,

(iv) the effect of exposure thereto whether by contact, inhalation or ingestion,

(v) the protective measures used or to be used in respect thereof,

(vi) the emergency measures used or to be used to deal with exposure in respect thereof, and

(vii) the effect of the use, transport and disposal thereof. New.

(2) An inspector shall only enter a dwelling or that part of a dwelling actually being used as a work place with the consent of the occupier or under the authority of a search warrant issued under section 16 of The Summary Convictions Act. 1971, c. 43, s. 8 (4); 1973, c. 47, s. 6 (4).

(3) Where an inspector makes an inspection of a work place under the powers conferred upon him under subsection 1, the constructor, employer or group of employers shall afford a committee member representing workers or a health and safety representative, if any, or a worker selected by a trade union or trade unions, if any, because of his knowledge, experience and training, to represent it or them and, where there is no trade union, a worker selected by the workers because of his knowledge, training and experience to represent them, the opportunity to accompany the inspector during his physical inspection of a work place, or any part or parts thereof.

(4) Where there is no committee member representing workers, health and safety representative or worker selected under subsection 3, the inspector shall endeavour to consult during his physical inspection with a reasonable number of the
workers concerning matters of health and safety at their work.

(5) The time spent by a committee member representing workers, health and safety representative or worker selected in accordance with subsection 3 in accompanying an inspector during his physical inspection shall be deemed to be work time for which he shall be paid by his employer at his regular or premium rate as may be proper. 1976, c. 79, s. 6 (1-3), amended.

29.—(1) Where an inspector finds that a provision of this Act or the regulations is being contravened, he may order, orally or in writing, the owner, constructor, employer, or person whom he believes to be in charge of a work place or the person whom he believes to be the contravener to comply with the provision and may require the order to be carried out forthwith or within such period of time as the inspector specifies. R.S.O. 1970, c. 214, s. 618 (1, (c); 1971, c. 43, s. 10 (1); 1973, c. 47, s. 11 (1), amended.

(2) Where an inspector makes an oral order under subsection 1, he shall confirm the order in writing before leaving the work place. 1971, c. 43, s. 10 (2), amended.

(3) An order made under subsection 1 shall indicate generally the nature of the contravention and where appropriate the location of the contravention. 1973, c. 47, s. 11 (2), amended.

(4) Where an inspector makes an order under subsection 1 and finds that the contravention of this Act or the regulations is a danger or hazard to the health or safety of a worker he may,

(a) order that any place, equipment, machine, device, article or thing or any process or material shall not be used until the order is complied with;

(b) order that work at the work place as indicated in the order shall stop until the order is complied with, or until the order to stop work is withdrawn or cancelled by an inspector;

(c) order that the work place where the contravention exists be cleared of workers and isolated by barricades, fencing or any other means suitable to prevent access thereto by a worker until the danger or hazard to the health or safety of a worker is
removed. 1971, c. 43, s. 10 (3), amended; 1973, c. 47, s. 11 (3, 4), amended.

Where an inspector makes an order under this section, he may affix to the work place, or to any equipment, machine, device, article or thing, a copy thereof or a notice in the prescribed form and no person, except an inspector, shall remove such copy or notice unless authorized to do so by an inspector. 1971, c. 43, s. 10 (4); 1973, c. 47, s. 11 (6), amended.

(6) Where an inspector makes an order in writing or issues a report of his inspection to an owner, constructor, employer or person in charge of the work place, the owner, constructor, employer or person in charge of the work place shall forthwith cause a copy or copies thereof to be posted in a conspicuous place or places at the work place where it is most likely to come to the attention of the workers and shall furnish a copy of such order or report to the health and safety representative and the committee, if any, and the inspector shall cause a copy thereof to be furnished to a person who has complained of a contravention of this Act or the regulations. 1976, c. 79, s. 7, amended.

(7) An inspector is not required to hold or afford to an owner, constructor, employer or any other person an opportunity for a hearing before making an order. New.

Where an order is made under clause c of subsection 4 of section 29, no owner, constructor, employer or supervisor shall require or permit a worker to enter the work place except for the purpose of doing work that is necessary or required to remove the danger or hazard and only where the worker is protected from the danger or hazard. 1973, c. 47, s. 11 (4), part.

In addition to any other remedy or penalty therefor, where an order made under subsection 4 of section 29 is contravened, such contravention may be restrained upon an ex parte application to a judge or local judge of the Supreme Court made at the instance of a Director. 1973, c. 47, s. 13 (2), amended.

—(1) Any employer, constructor, owner, worker or trade union which considers himself or itself aggrieved by any order made by an inspector under this Act or the regulations may, within fourteen days of the making thereof, appeal to a Director who shall hear and dispose of the appeal as promptly as is practicable.
(2) An appeal to a Director may be made in writing or orally or by telephone, but the Director may require the grounds for appeal to be specified in writing before the appeal is heard.

(3) The appellant, the inspector from whom the appeal is taken and such other persons as a Director may specify are parties to an appeal under this section.

(4) On an appeal under this section, a Director may substitute his findings for those of the inspector who made the order appealed from and may rescind or affirm the order or make a new order in substitution therefor, and for such purpose has all the powers of an inspector and the order of the Director shall stand in the place of and have the like effect under this Act and the regulations as the order of the inspector.

(5) In this section, an order of an inspector under this Act or the regulations includes any order or decision made or given or the imposition of any terms or conditions therein by an inspector under the authority of this Act or the regulations or the refusal to make an order or decision by an inspector.

(6) A decision of the Director under this section is final. 1971, c. 43, s. 11; 1973, c. 47, s. 12, amended.

(7) On an appeal under subsection 1, a Director may suspend the operation of the order appealed from pending the disposition of the appeal.

(8) This section does not apply to the order of a Director made under section 20. New.

33.—(1) No person shall hinder, obstruct, molest or interfere with or attempt to hinder, obstruct, molest or interfere with an inspector in the exercise of a power or the performance of a duty under this Act or the regulations.

(2) Every person shall furnish all necessary means in his power to facilitate any entry, inspection, examination, testing or inquiry by an inspector in the exercise of his powers or performance of his duties under this Act or the regulations.
(3) No person shall knowingly furnish an inspector with false information or neglect or refuse to furnish information required by an inspector in the exercise of his duties under this Act or the regulations. 1971, c. 43, s. 9; 1973, c. 47, s. 7, amended.

(4) No person shall interfere with any monitoring equipment or device in a work place.

(5) No person shall knowingly,

(a) hinder or interfere with a committee, a committee member or a health and safety representative in the exercise of a power or performance of a duty under this Act;

(b) furnish a committee, a committee member or a health and safety representative with false information in the exercise of a power or performance of a duty under this Act; or

(c) hinder or interfere with a worker selected by a trade union or trade unions or a worker selected by the workers to represent them in the exercise of a power or performance of a duty under this Act. New.

34.—(1) Except for the purposes of this Act and the regulations or as required by law,

(a) an inspector, a person accompanying an inspector or a person who, at the request of an inspector, makes an examination, test or inquiry, shall not publish, disclose or communicate to any person any information, material, statement, report or result of any examination, test or inquiry acquired, furnished, obtained, made or received under the powers conferred under this Act or the regulations; 1971, c. 43, s. 13 (1); 1973, c. 47, s. 8 (1), amended.

(b) no person shall publish, disclose or communicate to any person any secret manufacturing process or trade secret acquired, furnished, obtained, made or received under the provisions of this Act or the regulations; New.

(c) no person to whom information is communicated under this Act and the regulations shall divulge the name of the informant to any person; and 1971, c. 43, s. 13 (5); 1973, c. 47, s. 8 (5), amended.
(d) no person shall disclose any information obtained in any medical examination, test or x-ray of a worker made or taken under this Act except in a form calculated to prevent the information from being identified with a particular person or case. New.

(2) An inspector or a person who, at the request of an inspector, accompanies an inspector, or a person who makes an examination, test, inquiry or takes samples at the request of an inspector is not a compellable witness in a civil suit or any proceeding, except an inquest under The Coroners Act, 1972, respecting any information, material, statement or test acquired, furnished, obtained, made or received under this Act or the regulations. 1971, c. 43, s. 13 (3); 1973, c. 47, s. 8 (3), amended.

(3) A Director may communicate or allow to be communicated or disclosed information, material, statements or the result of a test acquired, furnished, obtained, made or received under this Act or the regulations. 1971, c. 43, s. 13 (4); 1973, c. 47, s. 8 (4), amended.

35. A Director may, upon receipt of a request in writing from the owner of a work place who has entered into an agreement to sell the same and upon payment of the fee or fees prescribed, furnish to the owner or a person designated by him copies of reports or orders of an inspector made under this Act in respect of the work place as to its compliance with subsection 1 of section 18. 1971, c. 43, s. 14, amended.

36.—(1) No action or other proceeding for damages, prohibition, or mandamus lies or shall be instituted against a Director, an inspector, an engineer of the Ministry, a health and safety representative, a committee member, a worker selected by a trade union or trade unions or a worker selected by the workers to represent them for an act or an omission done or omitted to be done by him in good faith in the execution or intended execution of any power or duty under this Act or the regulations.

(2) Subsection 1 does not, by reason of subsections 2 and 4 of section 5 of The Proceedings Against the Crown Act, relieve the Crown of liability in respect of a tort committed by a Director, an inspector or an engineer of the Ministry to which it would otherwise be subject and the Crown is liable under that Act for any such tort in a like manner as if subsection 1 had not been enacted. 1971, c. 43, s. 16; 1973, c. 47, s. 9, amended.
PART IX
OFFENCES AND PENALTIES

Penalties

37.—(1) Every person who contravenes or fails to comply with,

(a) a provision of this Act or the regulations;

(b) an order or requirement of an inspector or a Director; or

(c) an order of the Minister,
is guilty of an offence and on summary conviction is liable to a fine of not more than $25,000 or to imprisonment for a term of not more than twelve months, or to both.

Defence

(2) On a prosecution for a failure to comply with,

(a) subsection 1 of section 13;

(b) clause b, c or d of subsection 1 of section 14; or

(c) subsection 1 of section 16,
it shall be a defence for the accused to prove that every precaution reasonable in the circumstances was taken. R.S.O. 1970, c. 274, s. 625; 1971, c. 43, s. 36; 1973, c. 47, s. 26, amended.

(3) In a prosecution of an offence under any provision of this Act, any act or neglect on the part of any manager, agent, representative, officer, director or supervisor of the accused, whether a corporation or not, shall be the act or neglect of the accused. New.

38.—(1) In any proceeding or prosecution under this Act,

(a) a copy of an order or decision purporting to have been made under this Act or the regulations and purporting to have been signed by the Minister or an inspector;

(b) a document purporting to be a copy of a notice, drawing, record or other document, or any extract therefrom given or made under this Act or the regulations and purporting to be certified by an inspector; or

(c) a document purporting to certify the result of a test or an analysis of a sample of air and setting
forth the concentration or amount of a biological, chemical or physical agent in a work place or part thereof and purporting to be certified by an inspector,

is evidence of the order, decision, writing or document, and the facts appearing in the order, decision, writing or document without proof of the signature or official character of the person appearing to have signed the order or the certificate and without further proof. 1971, c. 43, s. 41; 1973, c. 47, s. 27, amended.

(2) In any proceeding or prosecution under this Act, a copy of an order or decision purporting to have been made under this Act or the regulations and purporting to have been signed by the Minister, a Director or an inspector may be served,

(a) personally in the case of an individual or in case of a partnership upon a partner, and in the case of a corporation, upon the president, vice-president, secretary, treasurer or a director, or upon the manager or person in charge of the work place; or

(b) by registered letter addressed to a person or corporation mentioned in clause a at his or its last known place of business,

and the same shall be deemed to be good and sufficient service thereof. New.

39. An information in respect of an offence under this Act may, at the election of the informant, be heard, tried and determined by the Provincial Court having jurisdiction in the county or district in which the accused is resident or carries on business although the subject-matter of the information did not arise in that county or district. 1973, c. 47, s. 28, amended.

40. No prosecution under this Act shall be instituted more than one year after the last act or default upon which the prosecution is based occurred. 1971, c. 43, s. 37.

PART X
REGULATIONS

41. —(1) The Lieutenant Governor in Council may make such regulations as are advisable for the health or safety
of persons in or about a work place. 1971, c. 43, s. 45 (1); 1973, c. 47, s. 31 (1), amended.

(2) Without limiting the generality of subsection 1, the Lieutenant Governor in Council may make regulations,

1. defining any word or expression used in this Act or the regulations that is not defined in this Act;

2. designating or defining any industry, work place, employer or class of work places or employers for the purposes of this Act, a part of this Act, or the regulations or any provision thereof;

3. exempting any work place, industry, activity, business, work, trade, occupation, profession, constructor, employer or any class thereof from the application of a regulation or any provision thereof;

4. limiting or restricting the application of a regulation or any provision thereof to any work place, industry, activity, business, work, trade, occupation, profession, constructor, employer or any class thereof;

5. respecting any matter or thing that is required or permitted to be regulated or prescribed under this Act;

6. respecting any matter or thing, where a provision of this Act requires that the matter or thing be done, used or carried out or provided as prescribed;

7. respecting any matter or thing, where it is a condition precedent that a regulation be made prescribing the matter or thing before this Act or a provision of this Act has any effect;

8. providing for and prescribing fees and the payment or refund of fees;

9. regulating or prohibiting the installation or use of any machine, device or thing or any class thereof;

10. requiring that any equipment, machine, device, article or thing used bear the seal of approval of an organization designated by the regulations to test and approve the equipment, machine, device, article or thing and designating organizations for such purposes;

11. respecting the reporting by physicians and others of workers affected by any biological, chemical or physical agents or combination thereof;
12. regulating or prohibiting atmospheric conditions to which any worker may be exposed in a work place;

13. prescribing methods, standards or procedures for determining the amount, concentration or level of any atmospheric condition or any biological, chemical or physical agent or combination thereof in a work place;

14. prescribing any biological, chemical or physical agent or combination thereof as a designated substance;

15. prohibiting, regulating, restricting, limiting or controlling the handling of, exposure to, or the use and disposal of any designated substance;

16. adopting by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any code or standard and requiring compliance with any code or standard that is so adopted;

17. adopting by reference any criteria or guide in relation to the exposure of a worker to any biological, chemical or physical agent or combination thereof;

18. enabling the Director by notice in writing to designate that any part of a project shall be an individual project for the purposes of this Act and the regulations and prescribing to whom notice shall be given;

19. permitting the Minister to approve laboratories for the purpose of carrying out and performing sampling, analyses, tests, and examinations, and requiring that sampling, analyses, examinations, and tests be carried out and performed by a laboratory approved by the Minister;

20. requiring and providing for the registration of employers of workers;

21. providing for the establishment, equipment, operation and maintenance of mine rescue stations, as the Minister may direct, and providing for the payment of the cost thereof and the recovery of such cost from the mining industry;
22. prescribing forms and notices and providing for their use; and

23. prescribing building standards for industrial establishments. 1971, c. 43, s. 45 (2); 1973, c. 47, s. 31 (2), amended.

42. The following are repealed:


43. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

44. The short title of this Act is *The Occupational Health and Safety Act, 1978*. 