

# Health and Safety Legislation in Canada

## Health and Safety Legislation in Canada - How to Read Legislation

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## What are Acts, regulations, codes, standards, and guidelines as they apply to health and safety?

Health and safety in the workplace is protected through a series of Acts and other legislation. The laws in Canada vary depending on the jurisdiction; however, the primary pieces of legislation that relate to occupational health and safety (OH&S) include the Act and regulations. Other key documents include standards, codes, and guidelines.

Note: Always consult the legislation that applies in your situation and with your [jurisdiction](#) for complete information. This document will help you understand how language is used in legislation.

### Act

Acts deal with issues of overall significance for the whole jurisdiction (in terms of occupational health and safety, for province, territory, or federal workplaces).

The Occupational Health and Safety Act (or equivalent) in each jurisdiction sets out general requirements to help make sure that workplace conditions are safe and do not pose a danger of injury or illness. Typically, an Act will list the rights and responsibilities of employers, workers, supervisors, and other parties.

Enforcement measures are also outlined in the Act.

### Regulations

Regulations list requirements for specific workplace conditions and work practices that must be met to ensure compliance with legislation. Regulations typically list these requirements in more detail than the Act. Regulations may be sector-specific (such as mining, construction, etc.) or hazard-specific (such as confined space, noise, etc.). Always be sure you are following the regulations that apply to your industry or situation.

Some jurisdictions use a sequence of regulations, codes, and guidelines to enact occupational health and safety requirements. It is also common for several regulations to be related to an Act and apply to a workplace.

## **Codes**

Codes are also enforceable pieces of legislation. As stated by Justice Canada, “In legal terms, codification is the process of collecting and restating the law in certain areas, usually by subject, forming a legal code such as a book.”

For example in Alberta, the Occupational Health and Safety Code sets the technical requirements for health and safety in Alberta’s workplaces. Similarly, the pieces of legislation for federal workplaces are known as the Canada Labour Code.

## **Standards**

Standards are produced by voluntary organizations, such as the Canadian Standards Association (CSA), the American National Standards Institute (ANSI), and the International Organization for Standardization (ISO).

When standards are published by these organizations, the standards do not have the power of law. They represent “good practice” and are viewed as guidelines. However, if a standard is adopted by legislation, then that standard becomes part of the law, and it becomes enforceable. For example, if the regulations require workers to use CSA-approved footwear, then the CSA standard specified about footwear has the power of law. Use of footwear that is not CSA-approved would be considered non-compliant.

## **Guidelines**

Guidelines are documents, often created by the jurisdiction, used to interpret legislation. They may provide instructions on how a workplace might comply with legal requirements. Guidelines typically do not have the force of law.

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# How is legislation structured?

Legislation is divided into divisions, parts, sections, subsections, clauses, and so on.

- Title
- Division
- Part

- Section
  - Subsection
    - Clause
      - Subclause

You will often see references to legislation written like this example from Prince Edward Island: OHS Act, Section 12(1)(a). This reference refers to the Occupational Health and Safety Act, Section 12, subsection 1, clause a.

This example from PEI refers to the general duty clause:

Occupational Health and Safety Act

Section 12 Duties of employers

12. (1) An employer shall ensure

(a) that every reasonable precaution is taken to protect the occupational health and safety of persons at or near the workplace;

Another example is the Saskatchewan Employment Act, Section 3-8(a).

DIVISION 3

Duties

General duties of employer

3-8 Every employer shall:

(a) ensure, insofar as is reasonably practicable, the health, safety and welfare at work of all of the employer's workers;

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## How are legal terms defined?

Definitions are often listed at the beginning of the Act or regulation. Definitions may also be listed in the Part or section where the term is first used or is most relevant. In some cases, the definitions are listed in the Act, but they also apply to the terms when used in the regulations.

When a term is not formally defined within the Act or regulations, the legal system uses the commonly understood meaning of the term and relates its meaning to how it is used within that part of the legislation. Definitions can be searched in a dictionary if you are not sure.

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## Does wording matter in legislation?

Yes. The wording is very important. Words in legislation have specific meanings or intent.

For example, you may see the word “prescribed” in an Act. Use of the word “prescribed” means that the action or item required may be described in a regulation (not necessarily in that Act).

Both the Act and regulations will use specific terms. For example, legal verbs include:

- **Shall, Will, or Must**– the item or action listed is a requirement
- **May or Should** – gives choice or option

Another example occurs when a list of items is presented.

- **And** – all items are equal, and all must be followed
- **Or** – choice is allowed, or only one of the items is necessary for action to be taken

For example, the Alberta Occupational Health and Safety Code, in Section 143, subsection 2, states:

143(2)

An employer must ensure that a carabiner or snap hook

(a) is self-closing and self-locking,

(b) may only be opened by at least 2 consecutive deliberate manual actions, and

(c) is marked with

(i) its breaking strength in the major axis, and

(ii) the name or trademark of the manufacturer.

The employer is required to do the actions because the word “must” is used. Since the word “and” is used after subclause (b), all three items listed in (a), (b), and (c) are required. Note there are two parts to item (c), both are required by the use of “and” after (i).

The use of the word “or” can be shown in the Manitoba Workplace Safety and Health Regulation, Section 5.4.

5.4 An employer must ensure a worker who becomes ill or is injured at the workplace receives assistance, as required, from

(a) a first aider; or

(b) a supervisor, if no first aider is required to be present in the workplace. In this section, the employer must make sure first aid help is available from a first aid attendant OR from a supervisor if a first aid attendant is not available. Only one of the first aid attendants or supervisors is needed in this situation.

# Does punctuation matter in legislation?

Yes. Similar to wording, punctuation can have specific meaning or intent.

- **Period (.)** at the end of a section or sub-section means these texts are full sentences, regardless of the number of clauses. A period also means this text is a complete thought, unrelated to the section before or after.
- **Comma (,)** at the end of a sub-clause. Using the comma gives each clause (related ideas or concepts) equal weight or importance.
- **Semicolon (;)** at the end of each clause. The semicolon indicated the clauses have equal weight, but that the ideas may be different from those before or after.
- **Colon (:)** at the end of a clause if the clause is followed by a number of sub-clauses.

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## What happens when the legislation is not specific about an issue?

Acts and regulations do not always list or prescribe the specific steps to take to be in compliance. Instead, it holds employers responsible for determining what steps they need to take to ensure the health and safety of all workers. If a specific issue is not covered by legislation, employers must be able to show their [due diligence](#) by taking every reasonable precaution to prevent injuries or incidents. The occupational health and safety act (or equivalent) in each jurisdiction has a clause stating this requirement. This concept is often referred to as the "general duty clause."

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## Where can I find more information?

Check with your jurisdiction for more information about how legislation is written and enforced.

For general information, please see Department of Justice (Canada): [Legistics <https://canada.justice.gc.ca/eng/rp-pr/csj-sjc/legis-redact/legistics/toc-tdm.html>](https://canada.justice.gc.ca/eng/rp-pr/csj-sjc/legis-redact/legistics/toc-tdm.html).

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