

# Health and Safety Legislation in Canada

## Health and Safety Legislation in Canada - Responsibilities of Directors or Senior Managers

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### What is the role of a director or senior manager?

Everyone in the workplace has a duty to keep the workplace safe. Those individuals in key leadership positions play a very important role in developing and maintaining a healthy and safe work culture. Directors, senior managers, senior executives, chief executive officers, chief operating officers, vice presidents, etc. Regardless of the title used, these positions have an overall responsibility to provide a healthy and safe workplace and to ensure that adequate resources are provided to meet the organization's occupational health and safety objectives.

Employers are required to take certain steps to ensure health and safety. As a director or senior manager, your obligation is to ensure these steps have been taken and are done properly.

Please see the OSH Answers, [Health and Safety Legislation in Canada - Basic Responsibilities](#) for more information, including the responsibilities of employees, supervisors or managers, and employers.

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### Who is a "senior officer" at an organization?

The inclusion of workplace health and safety into the Canadian *Criminal Code* (via the [Westray Bill \(Bill-C-45\)](#)) provided rules for attributing criminal liability to organizations, including corporations, their representatives, and those who direct the work of others.

The Section 217.1 of the *Criminal Code* reads:

"217.1 Every one who undertakes, or has the authority, to direct how another person does work or performs a task is under a legal duty to take reasonable steps to prevent bodily harm to that person, or any other person, arising from that work or task."

This section established rules for establishing criminal liability to organizations for the acts of their representatives and established a legal duty for all persons "directing the work of others" to take reasonable steps to ensure the safety of workers and the public.

The *Criminal Code* also defines:

"senior officer" as a representative who plays an important role in the establishment of an organization's policies or is responsible for managing an important aspect of the organization's activities and, in the case of a body corporate, includes a director, its chief executive officer and its chief financial officer.

"representative" as in respect of an organization, means a director, partner, employee, member, agent or contractor of the organization.

These representatives must be acting within the scope of their employment at the time of the alleged crime.

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## What are some health and safety responsibilities for directors or senior managers?

While exact responsibilities will vary based on jurisdiction, those with the role of senior management should:

- Take every reasonable precaution to make sure the workplace is safe.
- Provide adequate resources for implementing, maintaining, and improving the health and safety program.
- Appoint competent management representatives (managers and supervisors) with defined roles, authority, and responsibility, including responsibilities for the health and safety program.
- Define roles and responsibilities, establish accountability, and delegate authority for implementing the program.
- Establish and implement the health and safety policy.
- Ensure workers and worker representatives are consulted and can actively participate in developing and maintaining the program.

- Include health and safety activities and initiatives in the overall business plans.
- Make health and safety part of the business culture of your organization.
- Provide health and safety training and ensure that all workplace rules are complied with.
- Report all critical injuries to the government department responsible for health and safety.

Examples of questions to ask to show a director's or senior management's involvement and compliance could include:

- Do managers with operational roles have a copy of all of the applicable current legislation?
- Do all senior managers understand the hazards in the workplace, and the health and safety program in place to prevent harm from those hazards? The level of involvement will vary with the individual's role when overseeing workers.
- Have all managers reviewed policies and procedures for the operations they are responsible for and regularly confirm these policies and procedures are current? Document this review.
- Have managers reviewed the summary reports created to document compliance with the company's health and safety program? Does the program meet all applicable legislation and standards? Document this review.
- Is there an annual review of the health and safety program to make sure there is compliance with any legislative changes, or changes due to incident investigation or other safety improvement measures? How are these changes enacted and confirmed?
- Have managers ensured new and transferred workers receive complete safety orientation training? Is there ongoing training for all workers? Document training efforts and results.
- Is there confirmation that supervisors are monitoring to ensure policies and procedures are followed? Document these actions.
- Are site visits by directors or senior managers (operations) documented? If directives are given, is there a record and follow-up?
- Do senior managers receive results of compliance audits? (Audits can include annual reviews, supervisory audits or other reports). Are any directives acted upon, rectified, and documented?

(Adapted from Preventing OH&S Corporate Criminal Liability: Senior Management Risk Management Essentials, by C Edwards and K MacNeill, Heenan Blaikie LLP.)

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