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# Canada Gazette

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Registration

**Consultation**

SOR/2008-148 May 8, 2008

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CANADA LABOUR CODE

**Regulations Amending the Canada Occupational Health and Safety Regulations****Part II:  
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**Part III:  
Acts of Parliament**

Her Excellency the Governor General in Council, on the recommendation of the Minister of Labour, pursuant to sections 125 ([see footnote a](#)) and 157 ([see footnote b](#)) of the *Canada Labour Code*, hereby makes the annexed *Regulations Amending the Canada Occupational Health and Safety Regulations*.

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AND SAFETY REGULATIONS****Deadline schedule****AMENDMENT****Insertion rates****Request for  
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**1. The *Canada Occupational Health and Safety Regulations* ([see footnote 1](#)) are amended by adding the following after Part XIX:**

**Subscription  
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PART XX

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VIOLENCE PREVENTION IN THE WORK PLACE

**Archives (1998-2007)**

INTERPRETATION

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**20.1** The employer shall carry out its obligations under this Part in consultation with and the participation of the policy committee or, if there is no policy committee, the work place committee or the health and safety representative.

**20.2** In this Part, “work place violence” constitutes any action, conduct, threat or gesture of a person towards an employee in their work place that can reasonably be expected to cause harm, injury or illness to that employee.

WORK PLACE VIOLENCE PREVENTION POLICY

**20.3** The employer shall develop and post at a place accessible to all

employees a work place violence prevention policy setting out, among other things, the following obligations of the employer:

- (a) to provide a safe, healthy and violence-free work place;
- (b) to dedicate sufficient attention, resources and time to address factors that contribute to work place violence including, but not limited to, bullying, teasing, and abusive and other aggressive behaviour and to prevent and protect against it;
- (c) to communicate to its employees information in its possession about factors contributing to work place violence; and
- (d) to assist employees who have been exposed to work place violence.

#### IDENTIFICATION OF FACTORS THAT CONTRIBUTE TO WORK PLACE VIOLENCE

**20.4** The employer shall identify all factors that contribute to work place violence, by taking into account, at a minimum, the following:

- (a) its experience in dealing with those factors and with work place violence;
- (b) the experience of employers in dealing with those factors and with violence in similar work places;
- (c) the location and circumstances in which the work activities take place;
- (d) the employees' reports of work place violence or the risk of work place violence;
- (e) the employer's investigation of work place violence or the risk of work place violence; and
- (f) the measures that are already in place to prevent and protect against work place violence.

#### ASSESSMENT

**20.5** (1) The employer shall assess the potential for work place violence, using the factors identified under section 20.4, by taking into account, at a minimum, the following:

- (a) the nature of the work activities;
- (b) the working conditions;
- (c) the design of the work activities and surrounding environment;
- (d) the frequency of situations that present a risk of work place violence;
- (e) the severity of the adverse consequences to the employee exposed to a risk of work place violence;
- (f) the observations and recommendations of the policy committee or, if there is no policy committee, the work place committee or the health and safety representative, and of the employees; and

(g) the measures that are already in place to prevent and protect against work place violence.

(2) The employer, when consulting with the policy committee or, if there is no policy committee, the work place committee or the health and safety representative, shall not disclose information whose disclosure is prohibited by law or could reasonably be expected to threaten the safety of individuals.

## CONTROLS

**20.6** (1) Once an assessment of the potential for work place violence has been carried out under section 20.5, the employer shall develop and implement systematic controls to eliminate or minimize work place violence or a risk of work place violence to the extent reasonably practicable.

(2) The controls shall be developed and implemented as soon as practicable, but not later than 90 days after the day on which the risk of work place violence has been assessed.

(3) Once controls referred to in subsection (1) are implemented, the employer shall establish procedures for appropriate follow-up maintenance and corrective measures, including measures to promptly respond to unforeseen risks of work place violence.

(4) Any controls established to eliminate or minimize work place violence shall not create or increase the risk of work place violence.

## WORK PLACE VIOLENCE PREVENTION MEASURES REVIEW

**20.7** (1) The employer shall review the effectiveness of the work place violence prevention measures set out in sections 20.3 to 20.6 and update them whenever there is a change that compromises the effectiveness of those measures, but at least every three years.

(2) The review shall include consideration of the following:

(a) work place conditions and work locations and activities;

(b) work place inspection reports;

(c) the employees' reports and the employer's records of investigations into work place violence or the risk of work place violence;

(d) work place health and safety evaluations;

(e) data on work place violence or the risk of work place violence in the employees' work place or in similar work places;

(f) the observations of the policy committee, or if there is no policy committee, the work place committee or the health and safety representative; and

(g) other relevant information.

(3) The employer shall keep, for a period of three years, a written or electronic record of findings following the review of the work place violence prevention measures, and make it readily available for

examination by a health and safety officer.

#### PROCEDURES IN RESPONSE TO WORK PLACE VIOLENCE

**20.8** (1) The employer shall develop in writing and implement emergency notification procedures to summon assistance where immediate assistance is required, in response to work place violence.

(2) The employer shall ensure that employees are made aware of the emergency notification procedures applicable to them and that the text of those procedures is posted at a location readily accessible to those employees.

(3) In the development and implementation of emergency notification procedures, the employer's decision of whether or not to notify the police shall take into account the nature of the work place violence and the concerns of employees who experienced the work place violence.

(4) If the police are investigating a violent occurrence, the work place committee or the health and safety representative shall be notified of their investigation, unless notification is prohibited by law.

(5) The employer shall develop and implement measures to assist employees who have experienced work place violence.

#### NOTIFICATION AND INVESTIGATION

**20.9** (1) In this section, "competent person" means a person who

(a) is impartial and is seen by the parties to be impartial;

(b) has knowledge, training and experience in issues relating to work place violence; and

(c) has knowledge of relevant legislation.

(2) If an employer becomes aware of work place violence or alleged work place violence, the employer shall try to resolve the matter with the employee as soon as possible.

(3) If the matter is unresolved, the employer shall appoint a competent person to investigate the work place violence and provide that person with any relevant information whose disclosure is not prohibited by law and that would not reveal the identity of persons involved without their consent.

(4) The competent person shall investigate the work place violence and at the completion of the investigation provide to the employer a written report with conclusions and recommendations.

(5) The employer shall, on completion of the investigation into the work place violence,

(a) keep a record of the report from the competent person;

(b) provide the work place committee or the health and safety representative, as the case may be, with the report of the competent person, providing information whose disclosure is not prohibited by law and that would not reveal the identity of persons involved without their consent; and

(c) adapt or implement, as the case may be, controls referred to in subsection 20.6(1) to prevent a recurrence of the work place violence.

(6) Subsections (3) to (5) do not apply if

(a) the work place violence was caused by a person other than an employee;

(b) it is reasonable to consider that engaging in the violent situation is a normal condition of employment; and

(c) the employer has effective procedures and controls in place, involving employees to address work place violence.

#### TRAINING

**20.10** (1) The employer shall provide information, instruction and training on the factors that contribute to work place violence that are appropriate to the work place of each employee exposed to work place violence or a risk of work place violence.

(2) The employer shall provide information, instruction and training

(a) before assigning to an employee any new activity for which a risk of work place violence has been identified;

(b) when new information on work place violence becomes available; and

(c) at least every three years.

(3) The information, instruction and training shall include the following:

(a) the nature and extent of work place violence and how employees may be exposed to it;

(b) the communication system established by the employer to inform employees about work place violence;

(c) information on what constitutes work place violence and on the means of identifying the factors that contribute to work place violence;

(d) the work place violence prevention measures that have been developed under sections 20.3 to 20.6; and

(e) the employer's procedures for reporting on work place violence or the risk of work place violence.

(4) At least once every three years and in either of the following circumstances, the employer shall review and update, if necessary, the information, instruction and training provided:

(a) when there is a change in respect of the risk of work place violence; or

(b) when new information on the risk of work place violence becomes available.

(5) The employer shall maintain signed records, in paper or electronic form, on the information, instruction and training provided to each

employee for a period of two years after the date on which an employee ceases to perform an activity that has a risk of work place violence associated with it.

## COMING INTO FORCE

**2. These Regulations come into force on the day on which they are registered.**

### REGULATORY IMPACT ANALYSIS STATEMENT

*(This statement is not part of the Regulations.)*

#### **Description**

The *Violence Prevention in the Work Place Regulations* form Part XX of the *Canada Occupational Health and Safety (COHS) Regulations*, made pursuant to *Canada Labour Code (Code)*, Part II. The purpose of the Code is: “to prevent accidents and injury to health arising out of, linked with, or occurring in the course of employment at federally regulated employers”. The impetus for the Regulations is a provision in the Code that requires federally regulated employers to “take the prescribed steps to prevent and protect against violence in the work place” (article 125(1), (z.16)). The Regulations will allow standards to be set regarding the work place parties’ responsibilities in the prevention of work place violence.

It is recognized that the *Hazard Prevention Program Regulations* for federally regulated companies in Canada has resulted in the development and implementation of specific preventive measures to reduce or eliminate work place hazards, including, in some instances, risks related to work place violence. The *Violence Prevention in the Work Place Regulations* provide a specific instrument to allow for improved prevention programs and enforcement that are specific to work place violence.

The protection of workers from violence at work remains a prevalent issue across Canada. A number of the jurisdictions have recently made either regulatory or operational changes, or are considering specific work place violence sections in their respective occupational health and safety or employment standards legislation. These changes are also motivated by a recognition that workplace violence translates into economic and societal costs. The rising interest in addressing work place violence, expressed by all Canadian jurisdictions, resulted in the creation of a Work Place Violence Sub-Committee under the umbrella of the Canadian Association of Administrators of Labour Legislation (CAALL), whose members are committed to working cooperatively with the shared goal of reducing work place violence.

It is recognized that some larger federally regulated employers in Canada and those with employees at high risk for violence (i.e., frontline employees that deal with the public) may already have considerable preventative measures in place, as well as considerable safety or protective equipment, work place controls and staff training. However, employers who have implemented prevention programs and their employees have indicated that there is a need for increased emphasis on prevention and protection of employees, particularly related to enforcement. Other employers are now identifying risks related to

violence and will benefit from the direction that the Regulations will provide.

The *Violence Prevention in the Work Place Regulations* specifically define work place violence. It includes requirements to develop a work place violence prevention policy; to identify and assess risks related to work place violence; to put preventive controls in place and to provide training for employees. The employer will have to review the initiatives on a regular basis and update them if required, as well as to investigate each incident and provide a written report to the work place committee or the health and safety representative. The Regulations also introduce provisions for responding to, investigating and recording acts of violence.

The establishment of steps to prevent and protect against violence suited to the needs of individual work places is recognized as an essential tool to ensure that the objectives of amendments made to the Code in 2000 are reached. In the amendments, increased responsibility is placed on work place parties (employers and employees) to address occupational health and safety issues jointly in a more efficient and effective manner. This is achieved by involving work place committees and health and safety representatives in the resolution process of these issues.

### **Benefits and costs**

A cost-benefit analysis for amendments to COHS Regulations (Violence Prevention in the Work Place Programs) was completed by the Research and Analysis Unit, National Labour Operations Division in June 2005 and was reviewed by the Unit in October 2007. The direct economic benefits anticipated from the Regulations are realized mainly in the advantage to the Canadian economy as a result of the lowered risk of injury or mortality from work place violence following the introduction of the Regulations. There are also associated indirect benefits from the avoidance of various economic losses generated by occupational illness and accidents. An example of an indirect benefit from the Regulations would be an expected improvement in labour relations and in workers' morale, reduced overtime costs because of unfinished work, and increased productivity due to lowered rates of absence related to work place injuries and mortality.

All costs and benefits used in the model were adjusted for annual inflation and expressed in 2006 constant dollars (\$CDN). (2008 is expected to be the first year of implementation of the *Violence Prevention in the Work Place Regulations* within Canadian federal jurisdiction companies.) Net present value (NPV) estimates for each of three scenarios tested were developed by applying a commonly accepted social discount value (10%). The total benefits to total costs ratio (BCR) was also calculated for each of three scenarios.

It is anticipated that the principal costs to the Canadian economy from the introduction of the *Violence Prevention in the Work Place Regulations* will be the human resource cost for employers, related to documentation and administration of their respective programs, plus an additional cost factor deriving from the development and administration of employee work place anti-violence training and awareness programs. The costs were estimated as employer staff resource time (person-hours and person-days per firm, or worksite, where applicable) and as protective or safety equipment and controls purchases-employee training expenses

(per employee). The principal benefits were expressed and shadowpriced as a range of foreseeable percentage reductions in disabling and minor injuries and fatalities from work place violence incidents.

The cost-benefit analysis study of the *Violence Prevention in the Work Place Regulations* attempts to take all of the above-mentioned factors into consideration and to estimate specific benefits and costs arising from the new requirements for federally regulated employers which will be introduced by the Regulations. Ongoing costs and benefits in each industry under Canadian federal jurisdiction were estimated and evaluated according to three different numerical scenarios.

The first scenario tested a “low” regulation effectiveness measure (10% of injuries avoided for larger employers, as directly recommended by several large federally regulated employers) and a 1:1 ratio for indirect to direct benefits. The second scenario tested a “moderate” regulation effectiveness measure (20% of injuries avoided for larger employers) and a 1:1 ratio for indirect to direct benefits. The third scenario developed tested a “low” regulation effectiveness measure (10% of injuries avoided for larger employers), combined with a higher assumed ratio for indirect to direct benefits (2:1). In each of the three scenarios developed, cost components did not vary, or were assumed to remain constant. While all three scenarios tested demonstrated a positive benefit-to-cost ratio, the first scenario, the most conservative of the three tested, was adopted as the definitive scenario.

<b>Summary of Economic Benefits and Costs to all Canadians</b>	
(Expressed in 2006 Constant Dollars (\$CDN), discounted at 10% over 20 years)	
<b>Total Benefits</b>	<b>\$161,848,654</b>
<b>Total Costs</b>	<b><u>\$ 82,965,606</u></b>
<b>Net Present Value (NPV)</b>	<b>\$ 78,883,048 – Benefits exceeding costs</b>
<b>Benefit-to-Cost Ratio</b>	<b>2:1</b>

A detailed cost-benefit report is available entitled: *Cost-Benefit Analysis for COHS Regulations (Violence Prevention in the Work Place Programs)*, by Ron Logan, Research and Analysis Section, Occupational Health and Safety Division, Labour Program.

### **Consultation**

In 1986, the Labour Program (formerly Labour Canada) established the Regulatory Review Committee for the technical revision of federal occupational health and safety legislation. This Committee consists of equal membership drawn from organized labour and employer



organizations under federal jurisdiction.

The Regulatory Review Committee appointed a Tripartite Working Group in 1999 to review the positions and concerns of labour, management and the Labour Program regarding proposals for a new regulation relating to the prevention of violence in the work place. The members of the Working Group, representing a wide range of industrial sectors, were appointed by the Canadian Labour Congress (CLC) and by the Federally Regulated Employers in Transportation and Communications Organization (FETCO). A complete list of members is available upon request.

The first meeting of the Working Group in August 1999 led to a discussion of alternatives, including regulatory and non-regulatory options. As acts of violence internal to the workplace versus external to the workplace were a contentious issue, it was brought to the attention of the Regulatory Review Committee in February 2001. The Committee decided that both types of violence would be addressed equally in an all-encompassing *COHS Violence Prevention in the Work Place Regulations*. From June 2001 to January 2003, the Working Group continued to reflect this new approach and they reached a consensus to amend the *COHS Regulations* by developing a performance-based, all encompassing *Violence Prevention in the Work Place Regulations*. Further consultations with employer stakeholders were carried out during 2007.

Following pre-publication in the *Canada Gazette*, Part I on December 15, 2007, some comments were received from members of the public. These comments were supportive of the development of these Regulations and their objective to address the risk of work place violence and prevent violence at federally regulated employers.

The non-disclosure by employers of information (if prohibited by law) was raised by a group representing employees who participated in the Working Group. This issue was the subject of previous discussion between the Employers and Employees. However, the parties reached consensus during the deliberations of the working group. The outcome was that the employer would have the authority to divulge only that information that relates to health and safety matters. It was also agreed upon that security sensitive information that may endanger the health, safety and security of employees or the public would not be released. As consensus on this discussion item was confirmed in the report of the working group, no change was made to the Regulations regarding the disclosure of information. However, one change was made to section 20.6 of the English version of the Regulations to indicate controls of the potential for (rather than risk of) work place violence in accordance with section 20.5 which addresses the assessment of the potential for work place violence. No changes were required to the French version of the Regulations.

### ***Compliance and enforcement***

The purpose of the Labour Program's compliance policy is twofold. In the first place, it provides employers and employees with a better understanding of the mechanism used to achieve compliance with the Code. In the second place, it outlines the steps that the Labour Program will take to ensure compliance with the Code. Compliance with occupational health and safety requirements is monitored through a number of techniques.

Consulting with employer and employee groups on the development of the Regulations and the promotion of public information and education programs will help ensure that the Code and the Regulations are understood and accepted by all parties. Policy and work place health and safety committees are the primary mechanism through which employers and employees work together to solve job-related health and safety problems.

Health and safety officers assist the industry in establishing and implementing policy and work place health and safety committees, and related programs. The statutory powers of health and safety officers allow them to enter a work place and perform various activities to enforce compliance with the Code and the Regulations. For example, they may conduct safety audits and inspections, or they may investigate the circumstances surrounding the report of a contravention, work accident, refusal to work, or hazardous occurrence.

An Assurance of Voluntary Compliance (AVC) may be received by the health and safety officer from the employer or employee. The AVC is a written commitment to a health and safety officer that a contravention will be corrected within a specified time. Failure to complete the corrective actions specified in the AVC will lead to the issuing of a direction. A direction is issued by a health and safety officer whenever a dangerous condition exists and when an AVC is not obtainable or has not been fulfilled. A direction is a written notice directing the employer or employee to terminate and correct a contravention within a specified time.

If non-compliance continues, prosecution is initiated. Offences can lead to imprisonment. The maximum penalty for offences is, on summary conviction, a fine of \$1,000,000, or on conviction on indictment, imprisonment for up to two years and/or a fine of \$1,000,000.

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### [Footnote a](#)

S.C. 2000, c. 20, s. 5

### [Footnote b](#)

S.C. 2000, c. 20, s. 20

### [Footnote 1](#)

SOR/86-304; SOR/2002-208

**NOTICE:**

The format of the electronic version of this issue of the *Canada Gazette* was modified in order to be compatible with hypertext language (HTML). Its content is very similar except for the footnotes, the symbols and the tables.



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