

FTR Now

Ontario Imposes Mandatory Health and Safety Awareness Training

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On November 14, 2013, the Ontario government filed [O. Reg. 297/13 Occupational Health and Safety Awareness and Training](#), a new regulation under the *Occupational Health and Safety Act* (“OHSA”) requiring employers to ensure workers and supervisors receive mandatory safety awareness training.

In this *FTR Now*, we provide an overview of these new training obligations, and identify strategies and resources that can assist employers in achieving compliance.

BACKGROUND

The implementation of mandatory health and safety awareness training was one of the central recommendations of the [Expert Advisory Panel](#) that was appointed to review Ontario’s occupational health and safety system after a high profile, quadruple fatality at a construction site on December 24, 2009. As previously reported (September 6, 2012 *FTR Now* – [“Ontario Court of Appeal Increases Fine to \\$750,000 for Christmas Eve Fatalities”](#) and August 20, 2012 *FTR Now* – [“Court Imposes Criminal Code Fines for Work Accident”](#)), the employer in that case became the first Ontario corporation convicted of criminal negligence causing death, under the *Criminal Code* as amended by Bill C-45, after it pleaded guilty on June 15, 2012.

Following its review of Ontario’s occupational health and safety system, the Expert Advisory Panel concluded, among other things, that workers and supervisors were not adequately trained about basic workplace roles, rights and obligations to support the internal responsibility system underlying the OHSA. The Panel recommended that the government require mandatory health and safety awareness training for all workers and supervisors in Ontario.

The Ontario government has been implementing the Expert Advisory Panel’s recommendations since the release of its report, and on December 6, 2012, the government released a draft health and safety awareness training regulation for a period of public consultation that ended on February 4, 2013. The draft regulation and the notice of consultation that accompanied it proposed that the regulation would be filed on July 1, 2013 and come into force on January 1, 2014. However, the final regulation was not filed until last week, and training obligations will now not come into effect until July 1, 2014.

OVERVIEW OF THE NEW TRAINING OBLIGATIONS

Commencing on July 1, 2014, all Ontario employers are required to ensure that workers complete, as soon as practicable, a health and safety awareness training program that includes instruction on:

- the rights and obligations of workers, supervisors, and employers under the OHSA;
- the roles of health and safety representatives and joint health and safety committees (“JHSC”) under the OHSA;
- the role of the Ministry of Labour, the Workplace Safety and Insurance Board (“WSIB”), and health and safety associations, medical clinics, or training centres designated under the OHSA;
- common workplace hazards;
- the Workplace Hazardous Materials Information System; and,
- occupational illness and the fact that a period of time may pass between exposure to a substance and the development of symptoms.

Employers are also required to ensure that supervisors complete, within one week of performing work as a supervisor, a health and safety awareness training program that includes instruction on:

- the rights and obligations of workers, supervisors, and employers under the OHSA;
- the roles of health and safety representatives and JHSC under the OHSA;
- the role of the Ministry of Labour, the WSIB, and health and safety associations, medical clinics, or training centres designated under the OHSA;
- how to recognize, assess and control workplace hazards, and how to evaluate the effectiveness of controls; and,
- sources of information about occupational health and safety.

EXEMPTIONS FROM MANDATORY TRAINING

There are a few narrow exemptions in the regulation which will relieve employers of the obligation to retrain workers and supervisors who have already received the necessary training, or who were exempt from completing it.

Employers are not required to ensure that workers or supervisors complete health and safety awareness training if the workers or supervisors provide proof that they have completed the training, and employers are able to verify that the training covered the topics outlined above.

Employers are not required to ensure that supervisors complete training if prior to the regulation coming into force on July 1, 2014, the supervisors were already working as supervisors for the employer, and the employer has verified that the supervisors completed training covering the required topics.

Finally, employers are not required to ensure that workers or supervisors complete training if

another employer was previously exempt from providing training to the workers or supervisors, and the workers or supervisors provide proof of that exemption.

RECORD KEEPING AND SHARING

Employers are required to maintain records demonstrating that workers and supervisors completed health and safety awareness training, or that they were properly exempt from the requirement to do so.

Upon request, employers must provide workers or supervisors with written proof that they completed training, and in the case of supervisors who are exempt because they were already working as a supervisor and previously completed health and safety awareness training, the employer must provide the supervisor with written proof of exemption. The obligation to provide proof of training or exemption continues for six months after a worker or supervisor is no longer employed by the employer.

CONSOLIDATION OF TRAINING OBLIGATIONS

In addition to imposing new training obligations, effective November 14, 2013, the new regulation revoked [O. Reg. 780/94 Training Programs](#). This regulation previously required employers to provide the training programs necessary to enable JHSC members to become certified in accordance with the policies and procedures of the WSIB.

O. Reg. 780/94 has been replaced by a provision in the new regulation requiring employers to carry out the training programs necessary to enable JHSC members to become certified in accordance with the requirements of the Chief Prevention Office, which has taken over authority to establish training requirements for JHSC members.

CONCLUSION

Employers should be mindful that the new training obligations that will be imposed on July 1, 2014 will be in addition to their pre-existing training obligations under the OHSA. Among other things, employers are currently required to provide workers with the information, instruction and supervision necessary to protect their health and safety, and to ensure that supervisors are competent persons under the OHSA and that they have knowledge, training and experience to organize work, are familiar with the OHSA and its regulations, and have knowledge of workplace hazards.

Employers should also be aware that the new training obligations may apply broadly because of the way that “worker” and “supervisor” are defined by the OHSA. “Worker” is defined in the OHSA to include any person who “performs work or supplies services for monetary compensation.” Given the breadth of this definition, the new training obligation in relation to

workers may extend beyond employees to contractors and others who supply services to the employer for monetary compensation. In addition, “supervisor” is defined in the OSHA to include any person who “has charge of a workplace or authority over a worker.” As a result, the new training obligations in relation to supervisors may extend beyond managers and supervisors to lead hands and other workers who supervise work or have authority over other workers. For these reasons, employers should review their workplaces and identify all parties who may fall within the definition of worker and supervisor, and ensure that they are or were provided with the necessary training.

Employers should review the health and safety training that was provided to current workers and supervisors and assess whether the content of that training is sufficient to fulfill the requirements of the new regulation. If the training meets the basic content requirements outlined above, and there is written proof that that the training was completed, one of the exemptions outlined above may apply and employers may not be required to retrain workers and supervisors. If the content of the training does not meet the requirements outlined above, there is no written proof that the training was completed, or the exemptions outlined above do not otherwise apply, employers should revise their training programs to comply with the new regulation, and begin retraining workers and supervisors as necessary. In these cases, employers will need to establish systems to maintain training and exemption records as required by the regulation.

As noted above, employers have until July 1, 2014 to comply with the new training obligations in the regulation, and there a number of resources available to assist employers in achieving compliance. The Ministry of Labour has developed a series of basic training resources for [workers](#) and [supervisors](#) that will satisfy the requirements of the regulation. These resources include printed workbooks and e-learning modules that are available free of charge and in a variety of languages.

Although basic training materials are available free of charge, employers may wish to provide more fulsome health and safety training to existing workers and supervisors that they are required to retrain, or to newly hired workers and supervisors. More fulsome training may enhance worker and supervisor safety, prevent accidents, and assist the employer in demonstrating due diligence in relation to health and safety obligations.

If you have any questions about mandatory safety awareness training or another occupational health and safety matter, or you would like to arrange training, please contact any [member of the Occupational Health group](#).

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