

REGIONAL MUNICIPALITY OF OTTAWA-CARLETON
MUNICIPALITÉ RÉGIONALE D'OTTAWA-CARLETON

REPORT
RAPPORT

Our File/N/Réf.
Your File/V/Réf.

DATE 27 March 1997

TO/DEST. Co-ordinator
Corporate Services and Economic Development Committee

FROM/EXP. Human Resources Commissioner

SUBJECT/OBJET **REVIEW OF THE
*OCCUPATIONAL HEALTH AND SAFETY ACT***

DEPARTMENTAL RECOMMENDATION

That the Corporate Services and Economic Development Committee recommend Council approve the submission on the reform of the *Occupational Health and Safety Act* to the Honourable Elizabeth Witmer, Minister of Labour.

INTRODUCTION

On February 6, 1997 Ontario Labour Minister Elizabeth Witmer announced the initiation of the process to revise the Occupational Health and Safety Act (OHSA). The purpose of revising the current Act is to ensure that the new legislation will:

- enhance the prevention of injury and illness in the workplace;
- meet the needs of today's changing workplaces;
- encourage best practices and allow for greater flexibility for workplace parties to achieve safety objectives;
- establish the Internal Responsibility System as the foundation of occupational health and safety;
- eliminate red tape and any overlap or duplication with other legislation, and
- achieve progressive reductions in injury and illness occurrences in Ontario workplaces.

The review of the OHSA can be summarised by four key principles:

1. Prevention of Workplace Injury and Illness;
2. Workplace Partnership;
3. Effective Enforcement; and
4. Economic Growth

As part of the review, the public participation component will be terminated by no later than April 30, 1997.

DISCUSSION

The outcome of the review will be to clearly establish and maintain the internal responsibility system as the foundation for the OHSA. Along with this philosophy, the new legislation will promote self-reliant workplaces. It will provide workplace parties with the flexibility to achieve performance-based goals and objectives utilising Codes of Practice for specific industry sectors as a benchmark.

An overall review of occupational health and safety in Ontario began in March 1996 when the Minister of Labour announced the recommendations of the Workplace Health and Safety Review Panel. In November 1996, Bill 99, The Workplace Safety and Insurance Act was introduced to revise the previous Workers' Compensation Act. At this time, Bill 99 has passed the first reading of the Legislature. The current review of the OHSA completes the government initiatives for occupational health and safety in Ontario.

Previously, workers' compensation and occupational health and safety have been viewed as separate entities. The relationship between the prevention function of occupational health and safety and the return to work/income maintenance role of workers' compensation are clearly linked. The current government's position on these subject areas is that they are clearly different sides of the same coin.

With the review and changes to the OHSA and the proposed Workplace Safety and Insurance Act, the government is attempting to increase harmonisation and co-ordination of policies and program development between these two related disciplines.

To assist with the public participation of the OHSA review, the Ministry of Labour has prepared a discussion paper to guide the development of our suggestions. Specific issues have been presented in some detail in the discussion paper. It is hoped that these issues will stimulate thought and discussion regarding changes to the OHSA that are focused on areas of the Act that are important to the Ministry. Therefore, the recommendations and comments regarding revisions to the OHSA have been grouped under the following headings: Enhancing Flexibility, Enhancing Self-Reliance, Application and Scope of the Act, Enforcement of the Act and Miscellaneous Issues.

The attached report summarises the recommendations developed by stakeholders within the RMOC.

CONSULTATION

The public consultation process is not applicable. However, significant internal consultation has taken place with management and unions throughout the RMOc.

FINANCIAL IMPLICATIONS

The financial implications related to changes in the OHSA cannot be determined until the final legislation has been enacted. However, the proposed revisions call for increased employer self-reliance. This application of this principle may require employers or owners to obtain more specialised services in occupational health and safety or deliver expanded training programs to meet established benchmarks within industry code of practice.

*Approved by
Joyce M. Potter*

RP/db

Attach (1)

REVIEW OF THE OCCUPATIONAL HEALTH AND SAFETY ACT

FROM THE REGIONAL MUNICIPALITY OF OTTAWA CARLETON

The Regional Municipality of Ottawa Carleton appreciates the opportunity to participate in the review of this important legislation. As a major employer within the region, we have a keen interest in any set of regulations that affects our employees and the manner in which we conduct our operations and administration. We believe our record in occupational health and safety reflects our commitment to providing our employees with a healthy and safe workplace. We are also resolved to return to work our ill or injured workers in a manner that benefits all workplace parties.

Based on our experience with the current legislation, we feel that some aspects of the Occupational Health and Safety Act (OHSA) function quite effectively. However, there are areas which could benefit from a thorough review and adoption of progressive changes developed with the consensus of all workplace parties.

Using the discussion paper developed by the Ministry of Labour as a guide, we have consulted broadly within our organisation and have developed the following recommendations for your consideration.

Enhancing Flexibility

In our view, enhancing flexibility for employers and employees is a valuable principle to pursue. Some aspects of the current OHSA are very prescriptive and focus on the process rather than the outcome of the procedure. This emphasis detracts from the aim of creating mutual commitment to the development and maintenance of genuinely safe workplaces.

- If the new legislation, emphasising employer self-reliance, becomes less prescriptive, employers will be more accountable to develop effective monitoring systems and enhanced health and safety programs. Adequate lead time is critical for employers to adapt to the new requirements.
- Properly established performance measurements and appropriate benchmarking will be critical to the acceptance of performance-based legislation. Significant industry sector agreement must be achieved prior to the implementation of any “codes of practice” which will be used to guide the activities of an employer.
- The process to establish multi-site joint health and safety committees should be simplified to permit their establishment.

- We feel the recognition of overall health and safety performance is adequately served by maintaining our corporation as a Schedule II employer under the Workers' Compensation Act. This system provides immediate feedback to the employer as to the effectiveness of their health and safety programming by attributing all associated compensation costs directly back to the corporation where the accidents were incurred. We feel this approach may also be effective with other large employers in specific sectors as an alternative to the present system of assessing premiums based on sector accident averages.

Enhancing Self-Reliance

Increasing workplace self-reliance by enhancing and entrenching the concept of the internal responsibility system (IRS) within the OHSA could be effective, but only if the concept is defined clearly and the obligations of all workplace parties are indisputably articulated without becoming excessively prescriptive. By making workplaces more self-reliant, some latitude in Ministry of Labour enforcement policy must be initially given to employers to allow them to develop and implement effective occupational health and safety programming.

- The new role of the Ministry of Labour must be clearly defined and communicated to workplace parties.
- The Ministry should return to providing more consultative services to employers. This will be particularly critical during the initial phases of the new legislative implementation.
- Inspectors should issue orders only if no remedial actions are being taken by workplace parties to correct an identified deficiency.
- Employers should play an active role in establishing definitions, benchmarks or codes of practice for workplace assessments.
- The "constructor" on a construction project should be responsible for the development and application of a health and safety policy for the entire project.
- There should be no reduction in the present requirements to establish joint health and safety committees, although the process by which committees are constructed should be simplified.

Application and Scope of the Act

There are several instances where clarification of definitions are required to better serve the workplace parties.

- Students and volunteers should receive protection from employers for health and safety under the OHSA as it relates to their right-to-know and appropriate protection. However, due to their often temporary status, exemptions from other sections of the OHSA such as the requirement for JHSC should be considered.
- Homework should be addressed under a dedicated section of the Act and special consideration should be given to employers regarding their obligations to ensure a safe workplace.

- Employers should attempt to accommodate religious beliefs. However, if no adequate accommodation can be provided, the safety of a worker or co-workers should remain as the most important priority. Therefore, no safety exemptions should be contemplated for religious reasons. All workers should be protected equally from workplace hazards.
- Sexual harassment should not be dealt with under the Act. It should continue to be addressed under other, more appropriate regulations such as the Human Rights Code.

Enforcement of the Act

The change in the Ministry of Labour mission to becoming strictly an enforcement agent is not viewed as being particularly useful to us, as an employer. We would prefer to see the Ministry retain a larger role in assisting employers with achieving their occupational health and safety objectives, rather than simply penalising employers. This role could be accomplished by the Ministry expanding and accentuating its “setting and communicating” functions as opposed to becoming an enforcer.

- When required, the Ministry of Labour must consistently enforce the Act and its associated regulations.
- Reporting requirements for employers or owners should be streamlined through harmonisation with other provincial statutes.
- The previous health and safety performance of an employer and the severity of an accident should be considered when establishing the magnitude of any fine levied under the Act.

Miscellaneous

- If the need to report new chemical substances is removed from the Act (Section 34), the Ministry should ensure it remains a requirement in other provincial legislation.

CONCLUSIONS

The Regional Municipality of Ottawa Carleton supports the process of review for the OHSA. We feel there are significant opportunities to make this legislation more flexible and applicable in our rapidly changing workplace. We also fully support the aim of reducing duplication and increased harmonisation with other legislation such as workers’ compensation. As consequence of this effort, Ontario should have the most efficient occupational health and safety legislative framework in Canada. If this review is successful, and the new legislation provides the benefits it intends, Ontario may reap the benefits of reduced injury and illness which ultimately supports more productive and competitive workplaces.