

**IN THE MATTER OF AN ARBITRATION**

**BETWEEN:**

**BRANTFORD POLICE SERVICES BOARD**

**(the “Board”)**

**and**

**BRANTFORD POLICE ASSOCIATION**

**(the “Association”)**

**ASSOCIATION HEALTH AND SAFETY REMUNERATION GRIEVANCE**

**SOLE ARBITRATOR: John Stout**

**APPEARANCES:**

**FOR THE BOARD:**

**Seann D. McAleese, Counsel  
Larry Kings, Vice Chair Brantford Police Service Board  
Jeff Kelner, Deputy Chief  
Derek McElveny, Chief of Police**

**FOR THE ASSOCIATION:**

**Katie Rowen, Counsel  
Natalie Laing, Sick & Visiting Director  
Raj Saini, 1<sup>st</sup> Vice President  
Keith Drouillard, Bargaining Chair**

**HEARING HELD IN BRANTFORD, ONTARIO, ON OCTOBER 12, 2010**

## **AWARD**

### **A. INTRODUCTION**

[1] I was appointed pursuant to subsection 124 (3) of the *Police Services Act*, R.S.O. 1990, c.P. 15, as amended (the “PSA”) to hear and determine a dispute between the parties respecting the remuneration for members attending Joint Health and Safety Committee (“Committee”) meetings.

[2] The dispute arises from an Association grievance dated February 23, 2010 (the “grievance”). The Association alleges that paying an employee member of the Committee straight time for attendance at a meeting during their off duty hours violates article 6.01 of the sworn collective agreement (the “collective agreement”). The Board takes the position that participation on the Committee is voluntary and as such payment for attending such meetings is at straight time pursuant to Article 6.10 of the collective agreement.

### **B. RELEVANT PROVISIONS OF THE COLLECTIVE AGREEMENT**

[3] The relevant provisions of the collective agreement are as follows:

#### **ARTICLE 6 - OVERTIME**

6.01 Overtime shall be defined as any time worked by an employee in excess of the employee’s regularly scheduled hours and shall not include the first 15 minutes **immediately** before or **immediately** after the employee’s regular shift.

6.02 (a) An employee required to perform overtime on a continuous and consecutive basis immediately before the starting time of the employee’s regular shift, and such overtime exceeds 15 minutes, shall be paid at the rate of time and one-half, including the first 15 minutes up to the start of the employee’s regular shift.

(b) Employees required to perform overtime on a continuous and consecutive basis immediately after the quitting time of their regular shift, and such overtime exceeds 15 minutes, shall be paid at the rate of time and one-half, including the first 15 minutes.

(c) An employee required to perform out-of-town escort duty shall be paid the regular shift rate, and such overtime worked at the rate of time and one-half. Any employee required to remain out of town overnight shall be paid an additional 4 hours pay at the regular rate of pay for each 24 hour period. For the purpose of this clause, Article 6.06 shall not apply.

6.03 (a) Any time spent by an employee as a result of the execution of their duties as an employee of the Brantford Police Service, in their off-duty hours in attendance at any court, examination for discovery, civil trial, inquest, inquiry or Police Service hearing, not to include the accused unless acquitted on all charges as a result of service to the Police Service, shall be deemed to be overtime and the employee, unless such performance of overtime falls within the terms of Articles 6.02(a) and 6.02(b) above, shall be guaranteed a minimum period of 4 hours at one and one-half times the employee's **regular** hourly rate. Any witness fees or personal allowances received by the employee shall be returned to the Board, not to include any mileage allowance received. Notwithstanding, if a Police Service vehicle is utilized, any mileage allowance received by the employee shall be returned to the Board.

(b) An employee, after reporting off duty and before their next following tour of duty, is called back and is assigned overtime, shall be paid at double the employee's normal hourly rate and shall be guaranteed pay for a minimum period of 3 hours. Where the assigned overtime is continuous and consecutive to a regular shift, the provisions of Article 6.02 (a) shall apply.

6.04 Employees who are required to attend court during their annual vacation shall be granted the option of 2 days pay at regular rates or 2 days additional vacation with pay consecutive to their annual vacation for each day or part thereof lost as a result of each court appearance. An employee's annual vacation will not be cancelled or rescheduled to accommodate court appearances without the consent of the employee.

6.05 Notwithstanding the provisions of Articles 6.02 and 6.03 above, employees required to attend training periods as laid down by the Chief of Police in their discretion shall not be construed as working overtime, but shall be entitled to pay on an hour-for-hour basis.

6.06 (a) Employees shall receive 48 hours notice of any change of prescheduled shift, unless their services are required in an emergency situation in the discretion of the Chief of Police. In the event that 48 hours notice is not given, the employee shall receive pay at the rate of time and one-half for all time worked on such rescheduled shift.

(b) Whenever the Brantford Police Service has received at least 72 hours prior notice of the cancellation of any court proceedings, examination for discovery, inquest, inquiry or Police Service hearing requiring the attendance of an employee in the employee's off duty hours, the Brantford Police Service shall give the employee at least 48 hours prior notice thereof. Notice to the employee shall be sufficiently given if communicated by telephone to the employee or someone answering the employee's telephone, by a message being given to the employee's telephone answering device or service, or by delivery of written notification to the employee's residence. In the event that such notice is not given by the Brantford Police Service, the employee shall be paid for a minimum of 4 hours at one and one-half times their **regular** hourly rate of pay.

6.07 Employees required to be on standby at their residence shall be paid their hourly rate for all time required to remain on standby with a guaranteed time of 3 hours.

6.08 Notwithstanding the provisions of Articles 6.02 (a), 6.02 (b), 6.03 (a), 6.03 (b), 6.04 and 6.05 above, any employee desiring to be granted time off in lieu of pay for accumulated overtime, shall, by notice in writing addressed to the Chief of Police, apply therefore stating therein the amount of time off requested and the dates covered by the request, and such application may be granted in whole or in part by the Chief of Police in the Chief's discretion, and any such time off granted in lieu of pay for overtime shall be debited against the accumulated overtime of the employee concerned. It is, however, understood that no employee shall be required to take time off in lieu of pay for accumulated overtime without the employee's consent.

6.09 Subject to Article 6.08, all accumulated overtime **shall be paid at the current rate of pay, and shall be computed and paid in the month following the month in which it was accrued. Employees may elect to carry up to 40 hours of accumulated overtime into the next period, and must do so in writing to the Chief's designate, failing which all accrued time will be paid out.**

6.10 Employees voluntarily attending meetings of committees established by the Board or Police Service, from time to time, shall be paid the employee's regular hourly rate of pay.

## **C. RELEVANT STATUTORY PROVISIONS**

[4] The Association referenced a number of sections of the *Occupational Health and Safety Act R.S.O. 1990, Chapter O.1* (“OHSA”). All sections of the OHSA referenced by the Association were reviewed and are attached to this Award as Schedule “A”. The following are the sections of the OHSA pertinent to determining this matter:

9. (1) Subject to subsection (3), this section does not apply,
- (a) to a constructor at a project at which work is expected to last less than three months; or
  - (b) to a prescribed employer or workplace or class of employers or workplaces. R.S.O. 1990, c. O.1, s. 9 (1).

### **Joint health and safety committee**

- (2) A joint health and safety committee is required,
- (a) at a workplace at which twenty or more workers are regularly employed;
  - (b) at a workplace with respect to which an order to an employer is in effect under section 33; or
  - (c) at a workplace, other than a construction project where fewer than twenty workers are regularly employed, with respect to which a regulation concerning designated substances applies. R.S.O. 1990, c. O.1, s. 9 (2).

...

### **Establishment of committee**

(4) The constructor or employer shall cause a joint health and safety committee to be established and maintained at the workplace unless the Minister is satisfied that a committee of like nature or an arrangement, program or system in which the workers participate was, on the 1st day of October, 1979, established and maintained pursuant to a collective agreement or other agreement or arrangement and that such committee, arrangement, program or system provides benefits for the health and safety of the workers equal to, or greater than, the benefits to be derived under a committee established under this section. R.S.O. 1990, c. O.1, s. 9 (4); 1993, c. 27, Sched.

...

### **Composition of committee**

- (6) A committee shall consist of,
- (a) at least two persons, for a workplace where fewer than fifty workers are regularly employed; or
  - (b) at least four persons or such greater number of people as may be prescribed, for a workplace where fifty or more workers are regularly employed. R.S.O. 1990, c. O.1, s. 9 (6).

**Idem**

(7) At least half the members of a committee shall be workers employed at the workplace who do not exercise managerial functions. R.S.O. 1990, c. O.1, s. 9 (7).

**Selection of members**

(8) The members of a committee who represent workers shall be selected by the workers they are to represent or, if a trade union or unions represent the workers, by the trade union or unions. R.S.O. 1990, c. O.1, s. 9 (8).

...

**Meetings**

(33) A committee shall meet at least once every three months at the workplace and may be required to meet by order of the Minister. R.S.O. 1990, c. O.1, s. 9 (33).

**Entitlement to time from work**

- (34) A member of a committee is entitled to,
- (a) one hour or such longer period of time as the committee determines is necessary to prepare for each committee meeting;
  - (b) such time as is necessary to attend meetings of the committee; and
  - (c) such time as is necessary to carry out the member's duties under subsections (26), (27) and (31). R.S.O. 1990, c. O.1, s. 9 (34).

**Entitlement to be paid**

(35) A member of a committee shall be deemed to be at work during the times described in subsection (34) and the member's employer shall pay the member for those times at the member's regular or premium rate as may be proper. R.S.O. 1990, c. O.1, s. 9 (35).

**D. FACTS**

[5] In addition to the collective agreement, the parties provided me with a copy of the grievance dated February 23, 2010, the response of the Board dated April 1, 2010 and an "Agreed Statement of Facts". The parties submitted no other evidence. The "Agreed Statement of Facts" is set out below:

### **Agreed Statement of Facts**

1. Pursuant to its obligations under section 9 of the *Occupational Health and Safety Act*, the Brantford Police Service has established a Joint Occupational Health and Safety Committee (the "Committee"). The Brantford Police Service is responsible for establishing Policy and Procedures respecting Health and Safety matters and has done so pursuant to Health and Safety Policy Number 00-021 AD.
2. The Committee is currently comprised of seven (7) members, as well as Dave Scott who is an employee of the City of Brantford. Members are announced pursuant to Routine Orders of the Brantford Police Service. The Brantford Police Service arranges for and bears the cost of training new Committee Members.
3. The Association's representatives on the Committee are: Raj Saini, Natalie Laing, Brent Gage and Scott Williams. Saini and Laing are members of the Brantford Police Association Executive. Saini is a Co-Chair of the Committee, along with Deputy Chief Jeff Kellner.
4. Management's representatives on the Committee are: Deputy Chief Jeff Kellner, Inspector Scott Easto and Sandra Ott.
5. The Committee meets at least every three (3) months, as required by the *Occupational Health and Safety Act*. Committee meetings are held during the day, typically at 2 pm. The Committee is responsible for scheduling and arranging for such meetings.
6. A meeting of the Committee was held on January 28, 2010. Raj Saini and Natalie Laing were both scheduled to be off work during the time at which the meeting was held. Both Saini and Laing attended the meeting of the Committee.
7. On February 23, 2010, the Association filed a grievance asserting that all Association representatives on the Committee were entitled to be paid at a rate of 1.5 times regular salary for meeting held while the member is off duty. The grievance sought credit at 1.5 times regular rate for both Laing and Saini with respect to the January 28, 2010 meeting.
8. Association representatives on the Committee have been paid their regular straight time rate of pay for attendance at Committee meetings held during their off-duty hours.
9. The Brantford Police Service does not require attendance of a particular Association representative nor select Association members

for Committee meetings. The Association appoints its desired members to the Committee. Association members are not subject to discipline for failure to attend such meetings.

10. Association Members attend other meetings on a voluntary basis while off work, such as Clothing Committee and Wellness Committee, for which no premium pay entitlement is claimed by the Association. These committees are not established pursuant to any statutory requirement. These are volunteer committees. Brantford Police Service members attend in their personal capacity, and not as representatives of the Brantford Police Association.

11. The grievance was ultimately denied by way of letter to Association President Jeff Emmons, dated April 1, 2010, from Mark Littell, Chair of the Brantford Police Services Board.

## **E. POSITION OF THE ASSOCIATION**

[6] The Association submitted that the *OHSA* and the collective agreement mandate the payment of overtime rates to members attending Committee meetings while off duty. The Association argued that the Committee is the first line of defense in promoting employee health and safety in the workplace. The Association pointed out that the Committee is a mandatory requirement under the *OHSA*. The *OHSA* also mandates the composition of the Committee, providing that at least half the Committee be employees selected by the Association. Further, the actual timing of the meetings is mandated by the *OHSA*. In this regard, it was suggested that participation is not voluntary, but rather a statutory obligation.

[7] The Association also submitted that the *OHSA* requires that participation be deemed to be work and paid at regular or premium rates as may be proper. The Association argued that attendance at meetings of the Committee while off duty was work in excess of the members regularly scheduled hours. Accordingly, overtime is payable in accordance with article 6.01 of the collective agreement for all hours attending the Committee meetings while off duty. The Association submitted that article 6.10 of the collective agreement did not apply because the



obligation to participate in the Committee is not voluntary and members are required to attend meetings in accordance with the statutory requirements of the *OHSA*.

[8] The Association relied on the following authorities to support their argument: *Ingersoll Machine and Tool Company Limited v. Ministry of Labour*, (Referee M. G. Picher June 3, 1983); *Re Camp Hill Medical Centre and N.S.N.U* (1994), 39 L.A.C. (4<sup>th</sup>) 169 (Archibald); *Toronto District School Board and CUPE, Local 4400*, 2009 CanLii 59488 (ON L.A.); *Lafarge Canada Inc.* [200] OLRB Rep. January/February 92.

#### **F. POSITION OF THE BOARD**

[9] The Board submits that article 6.10 of the collective agreement fully addresses the issue in dispute. The Board argues that the *OHSA* permits the parties to agree what rate applies to attending Committee meetings. In this case, the Board suggests that the parties agreed to broad language that encompasses the circumstances in this matter and provides for payment to members at the regular hourly rate of pay.

[10] The Board argued that when read as a whole, the language in the collective agreement provided overtime payment only for work required by the Board, not work required by a statute. The Board points out that attendance at Committee meetings is voluntary. The Board does not direct members to attend and members are not subject to discipline if they do not attend meetings. The Board submitted that article 6.01 is a general provision relating to overtime. It is suggested that article 6.10 of the collective agreement is a specific provision, which takes precedence and clearly applies to the facts in this case.

[11] The Board relied upon the following authorities to support their argument: *Re Cliffs of Canada Ltd. and United Steelworkers* (1972), 1 L.A.C. (2d) 48 (H.D.

Brown); *Hamilton (City) v. Ontario Public Service Employees Union (Union Policy Grievance)* [2009] O.L.A.A. No. 202 (Kaplan); *Optec D.D. Canada Inc. v. United Steelworkers of America, Local 3997 (Temporary Transfers Grievance)* [1997] O.L.A.A. No. 608 (Snow).

## **G. DECISION**

[12] I have carefully considered the evidence and submissions of the parties and I conclude, based on the particular facts of this case and the language in the collective agreement, the grievance must be dismissed.

[13] The issue to be determined is the applicable or “proper” rate of pay for employee members attending Committee meetings. The determination of this issue involves the interpretation of the collective agreement within the context of the *OHS*A.

[14] In *Lafarge Canada Inc.*, *supra*, the Ontario Labour Relations Board (OLRB) dealt with a similar issue, but with different collective agreement language. The OLRB indicates, at paragraph 25 of the award, that the determination of what is the “proper” rate of pay within the meaning of subsection 9(35) of the *OHS*A must take into account the intention of the collective bargaining parties. I agree with this approach and find that it has application to the determination of the issue in this matter.

[15] The parties address overtime in article 6 of the collective agreement. Article 6.01 is the general provision governing overtime. Article 6.01 provides that overtime shall be defined as any time worked by an employee in excess of the employee’s regularly scheduled hours. The parties go on to indicate the rate of pay for various work assignments required of employees outside their regularly scheduled hours. However, the parties have also included article 6.10, which

specifically provides that employees “voluntarily” attending meetings of committees established by the Board shall be paid at the employee’s regular hourly rate of pay.

[16] It is a basic rule of interpretation that a specific provision takes precedence over a general provision in the absence of any indication in the document that the general provision has application despite a specific provision to the contrary: see *Lafarge Canada Inc.*, *supra*, at paragraph 25. Accordingly, article 6.10, if applicable, takes precedence over article 6.01.

[17] The *OHSA* requires that employers, including the Board, establish a joint health and safety committee. Furthermore, at least half the members of the committee are required to be employees, in this case members of the Association. The committee is also required to meet at least once every three months. The *OHSA* provides that members of the committee are entitled to time to prepare, attend meetings and carry out their duties and such time is deemed to be work that shall be paid at “regular or premium rate as may be proper”. However, the *OHSA* does not require or mandate attendance at the meetings.

[18] Furthermore, the evidence is clear that the Board does not require attendance of a particular employee or Association representative. The Association appoints its desired members to the Committee and such members are not subject to discipline for failure to attend such meetings. Therefore, employee members are not required to attend Committee meetings. Rather, they voluntarily attend as representatives of the Association and their members.

[19] I conclude that article 6.10 applies to the facts in this matter and defines the applicable or “proper” rate of pay for employee members attending meetings of the Committee. I further find that the parties are free to agree to such an arrangement unless it violates the *Employment Standards Act*, which has not been alleged in this matter.

[20] I recognize that my conclusion with respect to voluntariness differs from the conclusion of Arbitrator Archibald in *Re Camp Hill Medical Centre and N.S.N.U*, *supra*. However, Arbitrator Archibald was dealing with a situation where the employer was refusing to pay a grievor any wages for attending health and safety meetings. The facts, legislation and most importantly the language of the collective agreement in this matter are clearly different from the situation before Arbitrator Archibald.

[21] For all the reasons stated above, the claim for overtime is denied and I dismiss the grievance.

Dated at Toronto, Ontario this 20th day of October 2010.

A handwritten signature in purple ink, appearing to read 'J. Stout', is positioned above a horizontal line.

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John Stout – Arbitrator

## Schedule “A”

### Occupational Health and Safety Act

R.S.O. 1990, CHAPTER O.1

**Consolidation Period:** From July 1, 2010 to the [e-Laws currency date](#).

Last amendment: 2009, c. 33, Sched. 20, s. 3.

#### Definitions

1. (1) In this Act,

“Board” means the Ontario Labour Relations Board; (“Commission”)

“certified member” means a committee member who is certified by the Workplace Safety and Insurance Board under the *Workplace Safety and Insurance Act, 1997*; (“membre agréé”)

“committee” means a joint health and safety committee established under this Act; (“comité”)

“competent person” means a person who,

- (a) is qualified because of knowledge, training and experience to organize the work and its performance,
- (b) is familiar with this Act and the regulations that apply to the work, and
- (c) has knowledge of any potential or actual danger to health or safety in the workplace; (“personne compétente”)

“construction” includes erection, alteration, repair, dismantling, demolition, structural maintenance, painting, land clearing, earth moving, grading, excavating, trenching, digging, boring, drilling, blasting, or concreting, the installation of any machinery or plant, and any work or undertaking in connection with a project but does not include any work or undertaking underground in a mine; (“construction”)

“constructor” means a person who undertakes a project for an owner and includes an owner who undertakes all or part of a project by himself or by more than one employer; (“constructeur”)

“Deputy Minister” means the Deputy Minister of Labour; (“sous-ministre”)

“designated substance” means a biological, chemical or physical agent or combination thereof prescribed as a designated substance to which the exposure of a worker is prohibited, regulated, restricted, limited or controlled; (“substance désignée”)

“Director” means an inspector under this Act who is appointed as a Director for the purposes of this Act; (“directeur”)

“employer” means a person who employs one or more workers or contracts for the services of one or more workers and includes a contractor or subcontractor who performs work or supplies services and a contractor or subcontractor who undertakes with an owner, constructor, contractor or subcontractor to perform work or supply services; (“employeur”)

“engineer of the Ministry” means a person who is employed by the Ministry and who is licensed as a professional engineer under the *Professional Engineers Act*; (“ingénieur du ministère”)

“factory” means,

- (a) a building or place other than a mine, mining plant or place where homework is carried on, where,
  - (i) any manufacturing process or assembling in connection with the manufacturing of any goods or products is carried on,
  - (ii) in preparing, inspecting, manufacturing, finishing, repairing, warehousing, cleaning or adapting for hire or sale any substance, article or thing, energy is,
    - (A) used to work any machinery or device, or

- (B) modified in any manner,
  - (iii) any work is performed by way of trade or for the purposes of gain in or incidental to the making of any goods, substance, article or thing or part thereof,
  - (iv) any work is performed by way of trade or for the purposes of gain in or incidental to the altering, demolishing, repairing, maintaining, ornamenting, finishing, storing, cleaning, washing or adapting for sale of any goods, substance, article or thing, or
  - (v) aircraft, locomotives or vehicles used for private or public transport are maintained,
  - (b) a laundry including a laundry operated in conjunction with,
    - (i) a public or private hospital,
    - (ii) a hotel, or
    - (iii) a public or private institution for religious, charitable or educational purposes, and
  - (c) a logging operation; (“usine”)
- “hazardous material” means a biological or chemical agent named or described in the regulations as a hazardous material; (“matériau dangereux”)
- “hazardous physical agent” means a physical agent named or described in the regulations as a hazardous physical agent; (“agent physique dangereux”)
- “health and safety representative” means a health and safety representative selected under this Act; (“délégué à la santé et à la sécurité”)
- “homework” means the doing of any work in the manufacture, preparation, improvement, repair, alteration, assembly or completion of any article or thing or any part thereof by a person for wages in premises occupied primarily as living accommodation; (“travail à domicile”)
- “industrial establishment” means an office building, factory, arena, shop or office, and any land, buildings and structures appertaining thereto; (“établissement industriel”)
- “inspector” means an inspector appointed for the purposes of this Act and includes a Director; (“inspecteur”)
- “labour relations officer” means a labour relations officer appointed under the *Labour Relations Act, 1995*; (“agent des relations de travail”)
- “licensee” means a person who holds a licence under Part III of the *Crown Forest Sustainability Act, 1994*; (“titulaire d’un permis”)
- “logging” means the operation of felling or trimming trees for commercial or industrial purposes or for the clearing of land, and includes the measuring, storing, transporting or floating of logs, the maintenance of haul roads, scarification, the carrying out of planned burns and the practice of silviculture; (“exploitation forestière”)
- “mine” means any work or undertaking for the purpose of opening up, proving, removing or extracting any metallic or non-metallic mineral or mineral-bearing substance, rock, earth, clay, sand or gravel; (“mine”)
- “mining plant” means any roasting or smelting furnace, concentrator, mill or place used for or in connection with washing, crushing, grinding, sifting, reducing, leaching, roasting, smelting, refining, treating or research on any substance mentioned in the definition of “mine”; (“installation minière”)
- “Minister” means the Minister of Labour; (“ministre”)
- “Ministry” means the Ministry of Labour; (“ministère”)
- “occupational illness” means a condition that results from exposure in a workplace to a physical, chemical or biological agent to the extent that the normal physiological mechanisms are affected and the health of the worker is impaired thereby and includes an occupational disease for which a worker is entitled to benefits under the *Workplace Safety and Insurance Act, 1997*; (“maladie professionnelle”)
- “owner” includes a trustee, receiver, mortgagee in possession, tenant, lessee, or occupier of any lands or premises used or to be used as a workplace, and a person who acts for or on behalf of an owner as an agent or delegate; (“propriétaire”)
- “prescribed” means prescribed by a regulation made under this Act; (“prescrit”)

“project” means a construction project, whether public or private, including,

- (a) the construction of a building, bridge, structure, industrial establishment, mining plant, shaft, tunnel, caisson, trench, excavation, highway, railway, street, runway, parking lot, cofferdam, conduit, sewer, watermain, service connection, telegraph, telephone or electrical cable, pipe line, duct or well, or any combination thereof,
- (b) the moving of a building or structure, and
- (c) any work or undertaking, or any lands or appurtenances used in connection with construction; (“chantier”)

“regulations” means the regulations made under this Act; (“règlements”)

“shop” means a building, booth or stall or a part of such building, booth or stall where goods are handled, exposed or offered for sale or where services are offered for sale; (“magasin”)

“supervisor” means a person who has charge of a workplace or authority over a worker; (“superviseur”)

“trade union” means a trade union as defined in the *Labour Relations Act, 1995* that has the status of exclusive bargaining agent under that Act in respect of any bargaining unit or units in a workplace and includes an organization representing workers or persons to whom this Act applies where such organization has exclusive bargaining rights under any other Act in respect of such workers or persons; (“syndicat”)

“worker” means a person who performs work or supplies services for monetary compensation but does not include an inmate of a correctional institution or like institution or facility who participates inside the institution or facility in a work project or rehabilitation program; (“travailleur”)

“workplace” means any land, premises, location or thing at, upon, in or near which a worker works; (“lieu de travail”)

“workplace harassment” means engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome; (“harcèlement au travail”)

“workplace violence” means,

- (a) the exercise of physical force by a person against a worker, in a workplace, that causes or could cause physical injury to the worker,
- (b) an attempt to exercise physical force against a worker, in a workplace, that could cause physical injury to the worker,
- (c) a statement or behaviour that it is reasonable for a worker to interpret as a threat to exercise physical force against the worker, in a workplace, that could cause physical injury to the worker. (“violence au travail”) R.S.O. 1990, c. O.1, s. 1 (1); 1993, c. 27, Sched.; 1994, c. 24, s. 35; 1994, c. 25, s. 83 (1); 1997, c. 16, s. 2 (1-3); 1998, c. 8, s. 49; 2009, c. 23, s. 1; 2009, c. 33, Sched. 20, s. 3 (1).

#### **Ship under repair**

(2) For the purposes of this Act and the regulations, a ship being manufactured or under repair shall be deemed to be a project. R.S.O. 1990, c. O.1, s. 1 (2).

#### **Limitation**

(3) An owner does not become a constructor by virtue only of the fact that the owner has engaged an architect, professional engineer or other person solely to oversee quality control at a project. R.S.O. 1990, c. O.1, s. 1 (3).

## **PART II ADMINISTRATION**

### **Delegation of powers**

5. Where under this Act or the regulations any power or duty is granted to or vested in the Minister or the Deputy Minister, the Minister or Deputy Minister may in writing delegate that power or duty from time to time to any employee in the Ministry subject to such limitations, restrictions, conditions and requirements as the Minister or Deputy Minister may set out in the delegation. R.S.O. 1990, c. O.1, s. 5; 2006, c. 35, Sched. C, s. 93 (1).

### **Appointment of inspectors and Directors**

6. (1) Such persons as may be necessary to administer and enforce this Act and the regulations may be appointed as inspectors by the Deputy Minister and the Deputy Minister may designate one or more of the inspectors as a Director or Directors.

### **Director may act as inspector**

(2) A Director may exercise any of the powers or perform any of the duties of an inspector under this Act or the regulations. R.S.O. 1990, c. O.1, s. 6.

### **Certificate of appointment**

7. (1) The Deputy Minister shall issue a certificate of appointment, bearing his or her signature or a facsimile thereof, to every inspector.

### **Production of certificate**

(2) Every inspector, in the exercise of any powers or duties under this Act, shall produce his or her certificate of appointment upon request. R.S.O. 1990, c. O.1, s. 7.

### **Mandatory selection of health and safety representative**

8. (1) At a project or other workplace where no committee is required under section 9 and where the number of workers regularly exceeds five, the constructor or employer shall cause the workers to select at least one health and safety representative from among the workers at the workplace who do not exercise managerial functions.

### **Order appointing health and safety representatives**

(2) If no health and safety representative is required under subsection (1) and no committee is required under section 9 for a workplace, the Minister may, by order in writing, require a constructor or employer to cause the workers to select one or more health and safety representatives from among the workers at the workplace or part thereof who do not exercise managerial functions, and may provide in the order for the qualifications of such representatives.

### **Idem**

(3) The Minister may from time to time give such directions as the Minister considers advisable concerning the carrying out of the functions of a health and safety representative.

### **What Minister shall consider**

(4) In exercising the power conferred by subsection (2), the Minister shall consider the matters set out in subsection 9 (5).

### **Selection of representatives**

(5) The selection of a health and safety representative shall be made by those workers who do not exercise managerial functions and who will be represented by the health and safety representative in the workplace, or the part or parts thereof, as the case may be, or, where there is a trade union or trade unions representing such workers, by the trade union or trade unions.



**Inspections**

(6) Unless otherwise required by the regulations or by an order by an inspector, a health and safety representative shall inspect the physical condition of the workplace at least once a month.

**Idem**

(7) If it is not practical to inspect the workplace at least once a month, the health and safety representative shall inspect the physical condition of the workplace at least once a year, inspecting at least a part of the workplace in each month.

**Schedule of inspections**

(8) The inspection required by subsection (7) shall be undertaken in accordance with a schedule agreed upon by the constructor or employer and the health and safety representative.

**Inspections**

(9) The constructor, employer and workers shall provide a health and safety representative with such information and assistance as the member may require for the purpose of carrying out an inspection of the workplace.

**Idem**

(10) A health and safety representative has power to identify situations that may be a source of danger or hazard to workers and to make recommendations or report his or her findings thereon to the employer, the workers and the trade union or trade unions representing the workers.

**Powers of representative**

(11) A health and safety representative has the power,

- (a) to obtain information from the constructor or employer concerning the conducting or taking of tests of any equipment, machine, device, article, thing, material or biological, chemical or physical agent in or about a workplace for the purpose of occupational health and safety;
- (b) to be consulted about, and be present at the beginning of, testing referred to in clause (a) conducted in or about the workplace if the representative believes his or her presence is required to ensure that valid testing procedures are used or to ensure that the test results are valid; and
- (c) to obtain information from the constructor or employer respecting,
  - (i) the identification of potential or existing hazards of materials, processes or equipment, and
  - (ii) health and safety experience and work practices and standards in similar or other industries of which the constructor or employer has knowledge.

**Response to recommendations**

(12) A constructor or employer who receives written recommendations from a health and safety representative shall respond in writing within twenty-one days.

**Idem**

(13) A response of a constructor or employer under subsection (12) shall contain a timetable for implementing the recommendations the constructor or employer agrees with and give reasons why the constructor or employer disagrees with any recommendations that the constructor or employer does not accept.

**Notice of accident, inspection by representative**

(14) Where a person is killed or critically injured at a workplace from any cause, the health and safety representative may, subject to subsection 51 (2), inspect the place where the accident occurred and any machine, device or thing, and shall report his or her findings in writing to a Director.

**Entitlement to time from work**

(15) A health and safety representative is entitled to take such time from work as is necessary to carry out his or her duties under subsections (6) and (14) and the time so spent shall be deemed to be work time for which the representative shall be paid by his or her employer at the representative's regular or premium rate as may be proper.

**Additional powers of certain health and safety representatives**

(16) A health and safety representative or representatives of like nature appointed or selected under the provisions of a collective agreement or other agreement or arrangement between the constructor or the employer and the workers, has, in addition to his or her functions and powers under the provisions of the collective agreement or other agreement or arrangement, the functions and powers conferred upon a health and safety representative by this section. R.S.O. 1990, c. O.1, s. 8.

**Joint health and safety committee****Application**

9. (1) Subject to subsection (3), this section does not apply,
- (a) to a constructor at a project at which work is expected to last less than three months; or
  - (b) to a prescribed employer or workplace or class of employers or workplaces. R.S.O. 1990, c. O.1, s. 9 (1).

**Joint health and safety committee**

- (2) A joint health and safety committee is required,
- (a) at a workplace at which twenty or more workers are regularly employed;
  - (b) at a workplace with respect to which an order to an employer is in effect under section 33; or
  - (c) at a workplace, other than a construction project where fewer than twenty workers are regularly employed, with respect to which a regulation concerning designated substances applies. R.S.O. 1990, c. O.1, s. 9 (2).

**Minister's order**

(3) Despite subsections (1) and (2), the Minister may, by order in writing, require a constructor or an employer to establish and maintain one or more joint health and safety committees for a workplace or a part thereof, and may, in such order, provide for the composition, practice and procedure of any committee so established. R.S.O. 1990, c. O.1, s. 9 (3).

**Same**

(3.1) Despite subsections (1) and (2), the Minister may, by order in writing, permit a constructor or an employer to establish and maintain one joint health and safety committee for more than one workplace or parts thereof, and may, in the order, provide for the composition, practice and procedure of any committee so established. 1994, c. 27, s. 120 (1).

**Same**

- (3.2) In an order under subsection (3.1), the Minister may,
- (a) provide that the members of a committee who represent workers may designate a worker at a workplace who is not a member of the committee to inspect the physical condition of the workplace under subsection 9 (23) and to exercise a committee member's rights and responsibilities under clause 43 (4) (a) and subsections 43 (7), (11) and (12); and
  - (b) require the employer to provide training to the worker to enable the worker to adequately perform the tasks or exercise the rights and responsibilities delegated by the committee. 2001, c. 9, Sched. I, s. 3 (3).

**Same**

- (3.3) If a worker is designated under clause (3.2) (a), the following apply:
1. The designated worker shall comply with this section as if the worker were a committee member while exercising a committee member's rights and responsibilities.
  2. Subsections 9 (35) and 43 (13), section 55, clauses 62 (5) (a) and (b) and subsection 65 (1) apply to the designated worker as if the worker were a committee member while the worker exercises a committee member's rights and responsibilities.
  3. The worker does not become a member of the committee as a result of the designation. 2001, c. 9, Sched. I, s. 3 (3).

**Establishment of committee**

(4) The constructor or employer shall cause a joint health and safety committee to be established and maintained at the workplace unless the Minister is satisfied that a committee of like nature or an arrangement, program or system in which the workers participate was, on the 1st day of October, 1979, established and maintained pursuant to a collective agreement or other agreement or arrangement and that such committee, arrangement, program or system provides benefits for the health and safety of the workers equal to, or greater than, the benefits to be derived under a committee established under this section. R.S.O. 1990, c. O.1, s. 9 (4); 1993, c. 27, Sched.

**What Minister shall consider**

- (5) In exercising the power conferred by subsection (3) or (3.1), the Minister shall consider,
- (a) the nature of the work being done;
  - (b) the request of a constructor, an employer, a group of the workers or the trade union or trade unions representing the workers in a workplace;
  - (c) the frequency of illness or injury in the workplace or in the industry of which the constructor or employer is a part;
  - (d) the existence of health and safety programs and procedures in the workplace and the effectiveness thereof; and
  - (e) such other matters as the Minister considers advisable. R.S.O. 1990, c. O.1, s. 9 (5); 1994, c. 27, s. 120 (2).

**Composition of committee**

- (6) A committee shall consist of,
- (a) at least two persons, for a workplace where fewer than fifty workers are regularly employed; or
  - (b) at least four persons or such greater number of people as may be prescribed, for a workplace where fifty or more workers are regularly employed. R.S.O. 1990, c. O.1, s. 9 (6).

**Idem**

(7) At least half the members of a committee shall be workers employed at the workplace who do not exercise managerial functions. R.S.O. 1990, c. O.1, s. 9 (7).

**Selection of members**

(8) The members of a committee who represent workers shall be selected by the workers they are to represent or, if a trade union or unions represent the workers, by the trade union or unions. R.S.O. 1990, c. O.1, s. 9 (8).

**Idem**

(9) The constructor or employer shall select the remaining members of a committee from among persons who exercise managerial functions for the constructor or employer and, to the extent possible, who do so at the workplace. R.S.O. 1990, c. O.1, s. 9 (9).

**Requirement for committee membership**

(10) A member of the committee who ceases to be employed at the workplace ceases to be a member of the committee. R.S.O. 1990, c. O.1, s. 9 (10).

**Committee to be co-chaired**

(11) Two of the members of a committee shall co-chair the committee, one of whom shall be selected by the members who represent workers and the other of whom shall be selected by the members who exercise managerial functions. R.S.O. 1990, c. O.1, s. 9 (11).

**Certification requirement**

(12) Unless otherwise prescribed, a constructor or employer shall ensure that at least one member of the committee representing the constructor or employer and at least one member representing workers are certified members. R.S.O. 1990, c. O.1, s. 9 (12).

**Idem**

(13) Subsection (12) does not apply with respect to a project where fewer than fifty workers are regularly employed or that is expected to last less than three months. R.S.O. 1990, c. O.1, s. 9 (13).

**Designation of member to be certified**

(14) If no member representing workers is a certified member, the workers or the trade unions who selected the members representing workers shall select from among them one or more who are to become certified. R.S.O. 1990, c. O.1, s. 9 (14).

**Designation of certified members**

(15) If there is more than one certified member representing workers, the workers or the trade unions who selected the members representing workers shall designate one or more certified members who then become solely entitled to exercise the rights and required to perform the duties under this Act of a certified member representing workers. R.S.O. 1990, c. O.1, s. 9 (15).

**Idem**

(16) If there is more than one certified member representing the constructor or employer, the constructor or employer shall designate one or more of them who then become solely entitled to exercise the rights and required to perform the duties under this Act of a certified member representing a constructor or an employer. R.S.O. 1990, c. O.1, s. 9 (16).

**Replacement of certified member**

(17) If a certified member resigns or is unable to act, the constructor or employer shall, within a reasonable time, take all steps necessary to ensure that the requirement set out in subsection (12) is met. R.S.O. 1990, c. O.1, s. 9 (17).

**Powers of committee**

(18) It is the function of a committee and it has power to,

- (a) identify situations that may be a source of danger or hazard to workers;
- (b) make recommendations to the constructor or employer and the workers for the improvement of the health and safety of workers;
- (c) recommend to the constructor or employer and the workers the establishment, maintenance and monitoring of programs, measures and procedures respecting the health or safety of workers;
- (d) obtain information from the constructor or employer respecting,
  - (i) the identification of potential or existing hazards of materials, processes or equipment, and
  - (ii) health and safety experience and work practices and standards in similar or other industries of which the constructor or employer has knowledge;
- (e) obtain information from the constructor or employer concerning the conducting or taking of tests of any equipment, machine, device, article, thing, material or biological, chemical or physical agent in or about a workplace for the purpose of occupational health and safety; and
- (f) be consulted about, and have a designated member representing workers be present at the beginning of, testing referred to in clause (e) conducted in or about the workplace if the designated member believes his or her presence is required to ensure that valid testing procedures are used or to ensure that the test results are valid. R.S.O. 1990, c. O.1, s. 9 (18).

**Idem**

(19) The members of the committee who represent workers shall designate one of them who is entitled to be present at the beginning of testing described in clause (18) (f). R.S.O. 1990, c. O.1, s. 9 (19).

**Response to recommendations**

(20) A constructor or employer who receives written recommendations from a committee shall respond in writing within twenty-one days. R.S.O. 1990, c. O.1, s. 9 (20).

**Idem**

(21) A response of a constructor or employer under subsection (20) shall contain a timetable for implementing the recommendations the constructor or employer agrees with and give reasons why the constructor or employer disagrees with any recommendations that the constructor or employer does not accept. R.S.O. 1990, c. O.1, s. 9 (21).

**Minutes of proceedings**

(22) A committee shall maintain and keep minutes of its proceedings and make the same available for examination and review by an inspector. R.S.O. 1990, c. O.1, s. 9 (22).

**Inspections**

(23) Subject to subsection (24), the members of a committee who represent workers shall designate a member representing workers to inspect the physical condition of the workplace. R.S.O. 1990, c. O.1, s. 9 (23).

**Idem**

(24) If possible, the member designated under subsection (23) shall be a certified member. R.S.O. 1990, c. O.1, s. 9 (24).

**Idem**

(25) The members of a committee are not required to designate the same member to perform all inspections or to perform all of a particular inspection. R.S.O. 1990, c. O.1, s. 9 (25).

**Idem**

(26) Unless otherwise required by the regulations or by an order by an inspector, a member designated under subsection (23) shall inspect the physical condition of the workplace at least once a month. R.S.O. 1990, c. O.1, s. 9 (26).

**Idem**

(27) If it is not practical to inspect the workplace at least once a month, the member designated under subsection (23) shall inspect the physical condition of the workplace at least once a year, inspecting at least a part of the workplace in each month. R.S.O. 1990, c. O.1, s. 9 (27).

**Schedule of inspections**

(28) The inspection required by subsection (27) shall be undertaken in accordance with a schedule established by the committee. R.S.O. 1990, c. O.1, s. 9 (28).

**Inspections**

(29) The constructor, employer and the workers shall provide a member designated under subsection (23) with such information and assistance as the member may require for the purpose of carrying out an inspection of the workplace. R.S.O. 1990, c. O.1, s. 9 (29).

**Information reported to the committee**

(30) The member shall inform the committee of situations that may be a source of danger or hazard to workers and the committee shall consider such information within a reasonable period of time. R.S.O. 1990, c. O.1, s. 9 (30).

**Idem**

(31) The members of a committee who represent workers shall designate one or more such members to investigate cases where a worker is killed or critically injured at a workplace from any cause and one of those members may, subject to subsection 51 (2), inspect the place where the accident occurred and any machine, device or thing, and shall report his or her findings to a Director and to the committee. R.S.O. 1990, c. O.1, s. 9 (31).

**Posting of names and work locations**

(32) A constructor or an employer required to establish a committee under this section shall post and keep posted at the workplace the names and work locations of the committee members in a conspicuous place or places where they are most likely to come to the attention of the workers. R.S.O. 1990, c. O.1, s. 9 (32).

**Meetings**

(33) A committee shall meet at least once every three months at the workplace and may be required to meet by order of the Minister. R.S.O. 1990, c. O.1, s. 9 (33).

**Entitlement to time from work**

(34) A member of a committee is entitled to,

- (a) one hour or such longer period of time as the committee determines is necessary to prepare for each committee meeting;
- (b) such time as is necessary to attend meetings of the committee; and
- (c) such time as is necessary to carry out the member's duties under subsections (26), (27) and (31). R.S.O. 1990, c. O.1, s. 9 (34).

**Entitlement to be paid**

(35) A member of a committee shall be deemed to be at work during the times described in subsection (34) and the member's employer shall pay the member for those times at the member's regular or premium rate as may be proper. R.S.O. 1990, c. O.1, s. 9 (35).

**Idem**

(36) A member of a committee shall be deemed to be at work while the member is fulfilling the requirements for becoming certified by the Workplace Safety and Insurance Board and the member's employer shall pay the member for the time spent at the member's regular or premium rate as may be proper. R.S.O. 1990, c. O.1, s. 9 (36); 1998, c. 8, s. 50 (1).

**Exception**

(37) Subsection (36) does not apply with respect to workers who are paid by the Workplace Safety and Insurance Board for the time spent fulfilling the requirements for becoming certified. R.S.O. 1990, c. O.1, s. 9 (37); 1998, c. 8, s. 50 (2).

**Additional powers of certain committees**

(38) Any committee of a like nature to a committee established under this section in existence in a workplace under the provisions of a collective agreement or other agreement or arrangement between a constructor or an employer and the workers has, in addition to its functions and powers under the provisions of the collective agreement or other agreement or arrangement, the functions and powers conferred upon a committee by this section. R.S.O. 1990, c. O.1, s. 9 (38).

**Dispute resolution**

(39) Where a dispute arises as to the application of subsection (2), or the compliance or purported compliance therewith by a constructor or an employer, the dispute shall be decided by the Minister after consulting the constructor or the employer and the workers or the trade union or trade unions representing the workers. R.S.O. 1990, c. O.1, s. 9 (39).

**Worker trades committee**

**10.** (1) If a committee is required at a project, other than a project where fewer than fifty workers are regularly employed or that is expected to last less than three months, the committee shall establish a worker trades committee for the project.

**Committee membership**

(2) The members of a worker trades committee shall represent workers employed in each of the trades at the workplace.

**Selection of members**

(3) The members of a worker trades committee shall be selected by the workers employed in the trades the members are to represent or, if a trade union represents the workers, by the trade union.

**Function of worker trades committee**

(4) It is the function of a worker trades committee to inform the committee at the workplace of the health and safety concerns of the workers employed in the trades at the workplace.

**Entitlement to time from work**

(5) Subject to subsection (6), a member of a worker trades committee is entitled to such time from work as is necessary to attend meetings of the worker trades committee and the time so spent shall be deemed to be work time for which the member shall be paid by the employer at the member's regular or premium rate as may be proper.

**Committee to determine maximum entitlement**

(6) The committee for a workplace shall determine the maximum amount of time for which members of a worker trades committee for the workplace are entitled to be paid under subsection (5) for each meeting of the worker trades committee. R.S.O. 1990, c. O.1, s. 10.

**Consultation on industrial hygiene testing**

**11.** (1) The constructor or employer at a workplace shall consult a health and safety representative or the committee with respect to proposed testing strategies for investigating industrial hygiene at the workplace.

**Information**

(2) The constructor or employer shall provide information to a health and safety representative or the committee concerning testing strategies to be used to investigate industrial hygiene at the workplace.

**Attendance at testing**

(3) A health and safety representative or a designated committee member representing workers at a workplace is entitled to be present at the beginning of testing conducted with respect to industrial hygiene at the workplace if the representative or member believes his or her presence is required to ensure that valid testing procedures are used or to ensure that the test results are valid.

**Designation of member**

(4) The committee members representing workers shall designate one of them for the purpose of subsection (3). R.S.O. 1990, c. O.1, s. 11.

**Summary to be furnished**

**12.** (1) For workplaces to which the insurance plan established under the *Workplace Safety and Insurance Act, 1997* applies, the Workplace Safety and Insurance Board, upon the request of an employer, a worker, committee, health and safety representative or trade union, shall send to the employer, and to the worker, committee, health and safety representative or trade union requesting the information an annual summary of data relating to the employer in respect of the number of work accident fatalities, the number of lost work day cases, the number of lost work days, the number of non-fatal cases that required medical aid without lost work days, the incidence of occupational illnesses, the number of occupational injuries, and such other data as the Board may consider necessary or advisable. R.S.O. 1990, c. O.1, s. 12 (1); 1997, c. 16, s. 2 (4).

**Posting of copy of summary**

(2) Upon receipt of the annual summary, the employer shall cause a copy thereof to be posted in a conspicuous place or places at the workplace where it is most likely to come to the attention of the workers.

**Director to provide information**

(3) A Director shall, in accordance with the objects and purposes of this Act, ensure that persons and organizations concerned with the purposes of this Act are provided with information and advice pertaining to its administration and to the protection of the occupational health and occupational safety of workers generally. R.S.O. 1990, c. O.1, s. 12 (2, 3).

**13.** REPEALED: 1997, c. 16, s. 2 (5).

**14.** REPEALED: 1997, c. 16, s. 2 (6).

**15.** REPEALED: 1997, c. 16, s. 2 (7).

**16.** REPEALED: 1997, c. 16, s. 2 (8).

**17.** REPEALED: 1997, c. 16, s. 2 (9).

**18.** REPEALED: 1997, c. 16, s. 2 (10).

**19.** REPEALED: 1997, c. 16, s. 2 (10).

**Testimony in civil proceedings, etc.**

**20.** (1) Except with the consent of the Board, no member of the Board, nor its registrar, nor any of its other officers, nor any of its clerks or servants shall be required to give testimony in any civil proceeding or in any proceeding before the Board or in any proceeding before any other tribunal respecting information obtained in the discharge of their duties or while acting within the scope of their employment under this Act.

**Non-disclosure**

(2) No information or material furnished to or received by a labour relations officer under this Act shall be disclosed except to the Board or as authorized by the Board. 1998, c. 8, s. 51.

**Advisory committees**

**21.** (1) The Minister may appoint committees, which are not committees as defined in subsection 1 (1), or persons to assist or advise the Minister on any matter arising under this Act or to inquire into and report to the Minister on any matter that the Minister considers advisable. R.S.O. 1990, c. O.1, s. 21 (1).

**Remuneration and expenses**

(2) Any person appointed under subsection (1) who is not a public servant within the meaning of the *Public Service of Ontario Act, 2006* may be paid such remuneration and expenses as may be from time to time fixed by the Lieutenant Governor in Council. R.S.O. 1990, c. O.1, s. 21 (2); 2006, c. 35, Sched. C, s. 93 (2).

**Contribution to defray cost**

**22.** (1) The Workplace Safety and Insurance Board shall require Schedule 1 and Schedule 2 employers under the *Workplace Safety and Insurance Act, 1997* to make payments to defray the cost of administering this Act and the regulations. The Lieutenant Governor in Council may fix the total payment to be made by all employers for that purpose.

**Same**

(2) The Workplace Safety and Insurance Board shall remit the money collected from employers under this section to the Minister of Finance. 1997, c. 16, s. 2 (11).

**Powers under federal legislation**

**22.1** (1) If a regulation under the *Canada Labour Code* incorporates by reference all or part of this Act, the *Smoking in the Workplace Act* or a regulation under either of those Acts, the Board and any person having powers under this Act or the *Smoking in the Workplace Act* may exercise any powers conferred under the regulation under the *Canada Labour Code*.

**Same**

(2) If a regulation under section 9 of the *Atomic Energy Control Act* (Canada) requires an employer to whom this Act or the *Smoking in the Workplace Act* applies to comply with all or part of this Act, the *Smoking in the Workplace Act* or a regulation under either of those Acts, the Board and any person having powers under this Act or the *Smoking in the Workplace Act* may exercise any powers conferred under the regulation under the *Atomic Energy Control Act* (Canada). 1998, c. 8, s. 52.