

Chapter 25

AN ACT TO AMEND THE SAFETY ACT

(Assented to December 5, 2003)

The Commissioner of Nunavut, by and with the advice and consent of the Legislative Assembly, enacts as follows:

1. The *Safety Act* is amended by this Act.

2. Section 1 is amended by

(a) adding the following definitions in alphabetical order:

"code of practice" means a code of practice approved and issued by the Chief Safety Officer under subsection 18(3); (*code de pratique*)

"supplier" means a person who supplies, sells, leases, distributes, erects or installs any tool, equipment, machine, device, or any biological, chemical or physical agent to be used by a worker or at an establishment; (*fournisseur*)

(b) repealing the definition "employer" and substituting the following:

"employer" means every partnership, group of persons, corporation, owner, agent, principal contractor, sub-contractor, manager or other authorized person having charge of an establishment in which one or more workers are engaged in work; (*employeur*)

(c) striking out "in the Territories" in the definition "establishment" and substituting "in Nunavut";

(d) repealing the definitions "work site" and "worker" and substituting the following:

"work site" means a location where a worker is, or is likely to be, engaged in work, or a thing at, on, in or near which a worker is, or is likely to be, engaged in work; (*lieu de travail*)

"worker" means a person engaged in work for an employer, whether working with or without remuneration. (*travailleur*)

3. (1) The heading "GOVERNMENT OF THE NORTHWEST TERRITORIES" preceding section 3 is repealed and the following is substituted:

GOVERNMENT OF NUNAVUT

(2) Section 3 and subsection 11(5) are amended by striking out "Government of the Northwest Territories" and substituting "Government of Nunavut".

4. (1) Section 4 is renumbered as subsection 4(1).

(2) The following is added after subsection 4(1):

Coordination of employers

(2) If two or more employers have charge of an establishment, the principal contractor or, if there is no principal contractor, the owner of the establishment, shall coordinate the activities of the employers in the establishment to ensure compliance with subsection 4(1).

5. The following is added after section 6:

Duty of supplier

6.1. Every supplier shall

- (a) ensure that any tool, equipment, machine, device, or any biological, chemical or physical agent supplied, sold, leased, distributed, erected or installed by the supplier is safe when used in accordance with the directions provided by the supplier and complies with this Act and the regulations;
- (b) provide directions respecting the safe use of any tool, equipment, machine, device, or any biological, chemical or physical agent supplied, sold, leased, distributed, erected or installed by the supplier for use at an establishment;
- (c) ensure that any biological, chemical or physical agent supplied, sold or distributed by the supplier is labeled in accordance with applicable federal and territorial enactments; and
- (d) if the supplier has responsibility under a leasing agreement to maintain any tool, equipment, machine, device or other thing, maintain it in a safe condition and in compliance with this Act and the regulations.

6. Section 7 is repealed and the following substituted:

Safety program

7. (1) Every employer shall implement and maintain the applicable prescribed safety program for its work site and, if required by the regulations or if directed by the Chief Safety Officer under the regulations, shall establish a Joint Work Site Health and Safety Committee at the work site as part of the program.

One safety program for work site

(2) If two or more employers employ workers at a work site, the employers shall jointly implement and maintain any safety program for the work site that is required under subsection (1).

Composition of Committee

(3) Where an employer is required by the regulations or directed by the Chief Safety Officer under the regulations to establish a Joint Work Site Health and Safety Committee, the committee shall be composed of an equal number of

- (a) workers chosen by the workers at the work site who are representative of and who shall represent the occupational health and safety concerns of all the workers at the work site; and
- (b) persons chosen by the employer, or by each employer where workers of two or more employers are employed at the same work site, to represent the employer.

7. Subsections 11(1) to (3) are repealed and the following substituted:

Confidential information

11. (1) Any information obtained by a person under this Act is confidential and may only be disclosed

- (a) under the authority of the Board for the purposes of this Act or the regulations or for the purpose of administering other legislation that is administered by the Board;
- (b) under the authority of the Board to agencies or departments of the Government of Nunavut, the Government of Canada or the government of a province or territory;
- (c) under the authority of the Board to regulatory bodies or agencies approved by the Board; or
- (d) in accordance with the *Access to Information and Protection of Privacy Act*.

Identity of informant

(2) Notwithstanding subsection (1) and the *Access to Information and Protection of Privacy Act*, a safety officer may disclose the identity of any person from whom information is obtained under this Act in confidence if, in the opinion of the safety officer, the disclosure is necessary to investigate or prosecute an alleged contravention of this Act or the regulations.

Disclosure of information

(3) No person shall disclose any information obtained under this Act except in accordance with subsection (1) or (2).

8. Subsection 12(2) is repealed and the following substituted:

Notice respecting further direction if potential danger

(2) A safety officer who is satisfied that any place, matter or thing that is the subject of a direction that he or she intends to give under subsection (1) is likely to constitute a source of potential danger to the health or safety of persons in an establishment if the direction is not carried out may, in giving a direction under subsection (1), give notice that a further direction may be given under subsection (3).

Potential danger

(3) Where an employer or a person charged with carrying out a direction given under subsection (1) in respect of which a safety officer has given notice under subsection (2), fails to carry out the direction, the safety officer may give a direction that the place, matter or thing shall not be used until the direction given under subsection (1) is complied with.

Work or things necessary for compliance

(4) Nothing in subsection (3) prevents the doing of any work or thing necessary for proper compliance with the direction.

Appeal

(5) The employer or the person charged with carrying out a direction given under subsection (1) or (3) may appeal the direction under section 16.

9. The following is added after section 12:

Posting notice of potential danger

12.1. (1) Where a safety officer gives a direction under subsection 12(3), the safety officer shall affix to or near the source of potential danger a notice of the danger in the prescribed form.

Removal of notice

(2) No person shall remove the notice referred to in subsection (1) unless authorized to do so by the safety officer or by the Chief Safety Officer.

10. Subsection 13(1) is amended by striking out "occupation" wherever it appears and substituting "work".

11. The following is added after subsection 18(2):

Code of practice

(3) The Chief Safety Officer may approve and issue such codes of practice as he or she considers suitable for the purpose of providing practical guidance with respect to the requirements of any provision of this Act or the regulations.

Notice of code of practice

(4) On approving and issuing a code of practice under subsection (3), the Chief Safety Officer shall cause to be published in the *Nunavut Gazette* a notice

- (a) identifying the code;
- (b) specifying the provisions of this Act or the regulations to which the code relates;
- (c) stating the effective date of the code; and
- (d) indicating where copies of the code can be obtained.

12. Paragraphs 20(c) and 21(b) are amended by striking out

- (a) "the Government of the Northwest Territories" **and substituting "the Government of Nunavut"; and**
- (b) "the Yukon Territory" **and substituting "territory".**

13. The following is added after subsection 22(5):

Offence by supplier

(5.1) Every supplier who contravenes or fails to comply with a provision of this Act or the regulations is guilty of an offence and liable on summary conviction to a fine not exceeding \$500,000 or to imprisonment for a term not exceeding one year or to both.

14. The following is added after section 22:

Code of practice admissible in prosecution

22.1. (1) Where a person is charged with an offence for contravening or failing to comply with a provision of this Act or the regulations in respect of which the Chief Safety Officer has approved and issued a code of practice, that code is admissible as evidence in the prosecution of the offence.

Evidence of code of practice

(2) In any prosecution for an offence referred to in subsection (1), a copy of a code of practice purported to have been approved and issued under this Act and purporting to have been signed by the Chief Safety Officer shall be accepted in evidence without proof of the signature or of the authority of the person by whom it purports to be signed.

15. Section 25 is amended by adding the following after paragraph (k):

- (k.1) respecting the safety programs that must be implemented and maintained by employers under section 7;

16. The following is added after section 25:

SAFETY ADVISORY COMMITTEE

Safety Advisory Committee

26. (1) The Minister shall establish a Safety Advisory Committee consisting of the Chief Safety Officer and

- (a) three members whom the Minister considers as representing the interests of workers;
- (b) three members whom the Minister considers as representing the interests of employers; and
- (c) such other members as the Minister considers advisable to appoint.

Term of members

(2) A member of the Safety Advisory Committee appointed under paragraph (1)(a), (b) or (c) holds office for a term not exceeding three years as fixed in the appointment.

Chairperson

(3) The Chief Safety Officer is the chairperson of the Safety Advisory Committee.

Functions

(4) The Safety Advisory Committee shall make recommendations respecting amendments to this Act and the regulations that it determines are required or desirable in the interests of occupational health and safety.

Meetings

- (5) The chairperson shall convene a meeting of the Safety Advisory Committee
- (a) when he or she considers it necessary;
 - (b) within one year after the coming into force of this section; and
 - (c) within one year after the last meeting.

Advisors

(6) The chairperson may retain any professional or technical advisors that he or she considers necessary and their remuneration shall be paid out of the Accident Fund.

17. This Act, or any portion of it, comes into force on a day or days to be fixed by order of the Commissioner.