



Health and safety at work during Covid-19

OBJECTIVES

- To define what is COVID-19;
- To outline what is the employers responsibilities regarding pandemics by reviewing the Canada Labour Code and examining to the Ontario Quebec Occupational Health and Safety Acts;
- To identify rights and responsibilities of employees with regard to required training, information, precautions and personal protective equipment;
- To identify support and redress mechanisms if experiencing workplace issues, including enacting the Right to Refuse Dangerous work.

COVID-19 DEFINED

- Coronaviruses (CoV) are a large family of viruses that are common and are typically associated with mild illnesses, similar to the common cold.
- A novel coronavirus (nCoV) is a new strain that has not been previously identified in human.

A man with glasses and a beard is shown in profile, coughing. A cloud of white, virus-like particles is visible coming from his mouth. The background is dark with a subtle pattern of these particles. The text 'HOW CORONAVIRUS SPREAD?' is overlaid on the left side of the image.


HOW CORONAVIRUS SPREAD?

- Human coronaviruses causes infections of the nose, throat and lungs. They are most commonly spread from an infected person through.
- Respiratory droplets generated when you cough or sneeze
- Close, prolonged personal contact, such as touching or shaking hands with and infected person and then toughing your face and or eyes allowing the viruses to enter your body.

SOMETHING YOU CAN DO TO PROTECT YOURSELF

- Wash your hands for at least 20 seconds
- Avoid touching your face
- Don't touch anything you don't have to especially in public
- Avoid non essential travel
- Clean all high-touched surfaces frequently
- Practice physical distancing – at least 2 meters away from another person





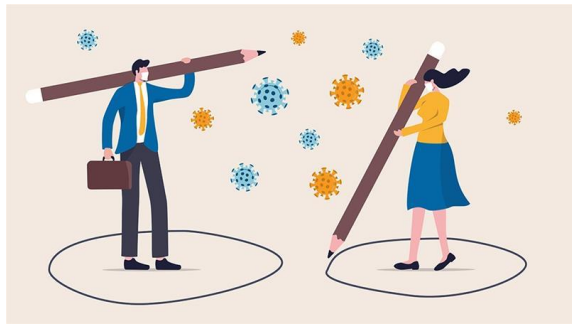
What is physical (social) distancing?

In order to decrease transmission of COVID-19, Public Health is now recommending that all residents to practice physical (social) distancing.

Physical distancing involves taking steps to limit the number of people to come into close contact with you.

Keep a safe distance

Using physical distancing techniques, such as using telephone, video conferencing, or the internet to conduct as much business as possible (including within the same building), allow employees to work from home, or to work flexible hours to avoid peak public transportation times or crowding the workplace.



This is the point many workplaces are at, and where most of the issues originate, when some are essential (or critical) to the operation of the workplace.



Your rights under the law Canada Labour Code and the occupational health and safety act



What is danger?

Danger :
Canada
Labour Code
(CLC)
definition

“Any hazard, condition or activity that could reasonably be expected to be an imminent or serious threat to the life or health of a person exposed to it before the hazard or condition can be corrected or the activity altered.”

Preventive measures: CLC

122.1 The purpose of this Part is to prevent accidents and injury to health arising out of, linked with or occurring in the course of employment to which this Part applies.

122.2 Preventive measures should consist first of the elimination of hazards, then the reduction of hazards and finally, the provision of personal protective equipment, clothing, devices or materials, all with the goal of ensuring the health and safety of employees.

General duties of employer: : CLC

124 Every employer shall ensure that the health and safety at work of every person employed by the employer is protected.

Nothing else in any part of the code or its regulations takes away from or diminishes this statement.

125 (1) Without restricting the generality of section 124, every employer shall, in respect of every work place controlled by the employer and, in respect of every work activity carried out by an employee in a work place that is not controlled by the employer, to the extent that the employer controls the activity...

Specific duties of employer: Chap. 125, CLC

- i) provide prescribed sanitary and personal facilities;
- l) provide every person granted access to the work place by the employer with prescribed safety materials, equipment, devices and clothing;
- n) ensure that the levels of ventilation, lighting, temperature, humidity, sound and vibration are in accordance with prescribed standards;
- q) provide, in the prescribed manner, each employee with the information, instruction, training and supervision necessary to ensure their health and safety at work;

Specific duties
of employer:
Chap. 125,
CLC

s) ensure that each employee is made aware of every known or foreseeable health or safety hazard in the area where the employee works;

y) ensure that the activities of every person granted access to the work place do not endanger the health and safety of employees;

z) ensure that employees who have supervisory or managerial responsibilities are adequately trained in health and safety and are informed of the responsibilities they have under this Part where they act on behalf of their employer;

z.01) ensure that members of policy and work place committees and health and safety representatives receive the prescribed training in health and safety and are informed of their responsibilities under this Part;

Duties of employers : Ontario Occupational Health and Safety Act (OHSA)

Section 25 assigns a mixture of general and specific duties to employers and provides for other duties to be prescribed (required) by regulation.

Some of the general duties require an employer to:

- Take all reasonable precautions to protect the health and safety of workers;
- Ensure that equipment, materials and protective equipment are maintained in good condition;
- Provide information, instruction and supervision to protect worker health and safety; and
- Co-operate with the JHSC.

Specific duties of employers : Ontario

Some of the specific duties require an employer to:

- Comply with all regulations made under OHSA;
- Develop and implement an occupational health and safety program and policy;
- Post a copy of OHSA in the workplace; and any explanatory material prepared by the Ministry of Labour in the workplace; and
- Provide health and safety reports to the JHSC.

OHSA Section 26 details a number of other areas where additional duties for an employer may be prescribed. Regulations give more specific directions on how to comply with the general requirements of OHSA.

**General obligations
of the employer:
An Act respecting
occupational
health and safety
Quebec (AROHS)**

Division II, Chapter 51

Every employer must take the necessary measures to protect the health and ensure the safety and physical well-being of his worker. He must, in particular,

- (1) see that the establishments under his authority are so equipped and laid out as to ensure the protection of the worker;
- (7) supply safety equipment and see that it is kept in good condition;
- (14) cooperate with the health and safety committee, or as the case may be, the job-site committee and with any person responsible for the application of this Act and the regulations and provide them with all necessary information;

Other obligations of the employer: Quebec

51 (10)- post up in a conspicuous place easily accessible to the worker all information transmitted by the Commission, the agency and the physician in charge, and put that information at the disposal of the workers, the health and safety committee and of the certified association;

58- Every employer who has an establishment of a category identified for that purpose by regulation must see that a prevention program for each establishment under his authority is implemented, taking into account the responsibilities of the health and safety committee, if any.

Other obligations of the employer: Quebec

62 - Every employer must inform the Commission of an incident, by the most rapid means of communication, and, within 24 hours, make a written report to it, in the form and with the information prescribed by regulation, if the incident has caused

- (1) the death of a worker;
- (2) the loss of a limb or of part of a limb, the total or partial loss of the use of a limb or a significant physical trauma to a worker;
- (3) such serious injuries to several workers as probably to prevent them from performing their work for one working day; or
- (4) material damage valued at \$150,000 or more.

Policy committee role in federal jurisdiction

z.03) develop, implement and monitor, in consultation with the policy committee or, if there is no policy committee, with the work place committee or the health and safety representative, a prescribed program for the prevention of hazards in the work place appropriate to its size and the nature of the hazards in it that also provides for the education of employees in health and safety matters;

z.04) where the program referred to in paragraph (z.03) does not cover certain hazards unique to a work place, develop, implement and monitor, in consultation with the work place committee or the health and safety representative, a prescribed program for the prevention of those hazards that also provides for the education of employees in health and safety matters related to those hazards;

Policy committee role in federal jurisdiction (cont,d)

z.05) consult the policy committee or, if there is no policy committee, the work place committee or the health and safety representative to plan the implementation of changes that might affect occupational health and safety, including work processes and procedures

z.06) consult the work place committee or the health and safety representative in the implementation of changes that might affect occupational health and safety, including work processes and procedures;



Right to refuse

(CLC and Provincial jurisdictions)

Refusal to work if danger (CLC)

128 (1) Subject to this section, an employee may refuse to use or operate a machine or thing, to work in a place or to perform an activity, if the employee while at work has reasonable cause to believe that

(a) the use or operation of the machine or thing constitutes a danger to the employee or to another employee;

(b) a condition exists in the place that constitutes a danger to the employee; or

(c) the performance of the activity constitutes a danger to the employee or to another employee.

Right of refusal: Ontario

Ontario - Article 43 Right to refuse or to stop work where health or safety in danger

(3) A worker may refuse to work or do particular work where he or she has reason to believe that,

(a) any equipment, machine, device or thing the worker is to use or operate is likely to endanger himself, herself or another worker;

(b) the physical condition of the workplace or the part thereof in which he or she works or is to work is likely to endanger himself or herself;

(b.1) workplace violence is likely to endanger himself or herself; or

(c) any equipment, machine, device or thing he or she is to use or operate or the physical condition of the workplace or the part thereof in which he or she works or is to work is in contravention of this Act or the regulations and such contravention is likely to endanger himself, herself or another worker.

Right of refusal Quebec

Art. 12. A worker has a right to refuse to perform particular work if he has reasonable grounds to believe that the performance of that work would expose him to danger to his health, safety or physical well-being, or would expose another person to a similar danger.

If you have questions about the right of refusal, either under the Canada Labour Code or under your provincial jurisdiction, contact your PSAC Regional Office.

Right to refuse work, step by step, under CLC

Employee refuses and notifies employer - 128 (6)

Employer investigates in presence of employee and prepares report - 128 (7.1)

If the employee is satisfied, the employee returns to work.

If the employee is dissatisfied, he or she must notify the employer and the committee/representative - 128 (9)

The committee/representative investigates in the presence of the employee - 128 (10) and submits a report to the employer setting out the results and recommendations of the investigation - 128 (10.1)

Right to refuse work, step by step, under CLC

If the employee is satisfied, he or she returns to work.

The employer provides additional information to the committee/representative - 128 (10.2)

If the author of the report considers it appropriate, the report may then be submitted to the employer with a revised report in light of that information.

Under 128 (13), the employer must make one of the following decisions: Acknowledges the existence of the danger, takes corrective action and informs the committee/representative - 128(14)

Right to refuse work, step by step, under CLC

It recognizes the existence of danger, but prohibits refusal under paragraph 128(13)(b) because the refusal directly endangers the life, health or safety of another person - 128(2) (a) or the danger is a normal condition of employment - 128(2)

(b) Employee continues to refuse and informs the employer under paragraph 128 (15)

Employer informs Minister of Labour, submits investigation report and also informs committee/representative - 128 (16)

Exercising the right of refusal

An employee who wants to exercise his or her right to refuse dangerous work must immediately inform the employer of the danger.

Where several employees report the same situation to the employer, they may designate a spokesperson to represent them in the committee's/representative's investigation.

The right to refuse is different from the dispute resolution process provided for in collective agreements where "**comply first and grieve later**".

Exercising the right of refusal

Upon learning that the employee has exercised his or her right to refuse dangerous work, the employer shall immediately investigate the situation in the presence of the employee. The investigation is conducted even if the employee or his or her spokesperson chooses not to be present.

The employer may not, at this point, assign to another employee the work that the employee refuses to perform. The employer must wait until the internal investigation, described in this document, is completed and the matter has been properly referred to the Health and Safety Officer.

Exercising the right of refusal

Once the investigation is completed, the employer prepares a report setting out the findings of the investigation. If the employer agrees that a danger exists, the employer shall immediately take the necessary steps to protect employees from the danger. The employer will also inform the local committee/representative of the situation and the measures taken to remedy the situation.

Continued refusal

After the investigation, if the employee does not agree with the employer's decision, he or she may maintain the refusal. The employee shall immediately inform the employer and the local committee/representative.

Investigation by local committee or representative

Having been informed of the continued refusal, the local committee/representative shall immediately initiate an investigation in the presence of the employee. The workplace committee shall select two of its members to conduct the investigation, one representing the employees and one representing the employer.

The committee/work place representative then submits a written report to the employer outlining the findings of the investigation and recommendations, if any.

Employer's decision

Having received the report of the local committee/representative, the employer shall take one of the following two decisions:

The danger exists:

The employer shall take immediate action to protect the employees and shall inform the work place committee/work place representative of the situation and the action taken to remedy it.

After corrective action has been taken, the employee returns to work, if he/she agrees.

Or... concept
of inherent
risk

The danger exists, but the refusal is prohibited under section 128 (2) because it directly endangers the life, health or safety of another person or is a normal condition of employment.

The employer must inform the employee in writing.

If the employee agrees, he or she returns to work.

Continuation of the refusal after the employer's decision

If the employee objects to the employer's decision, he or she shall inform the employer that he or she maintains his or her refusal.

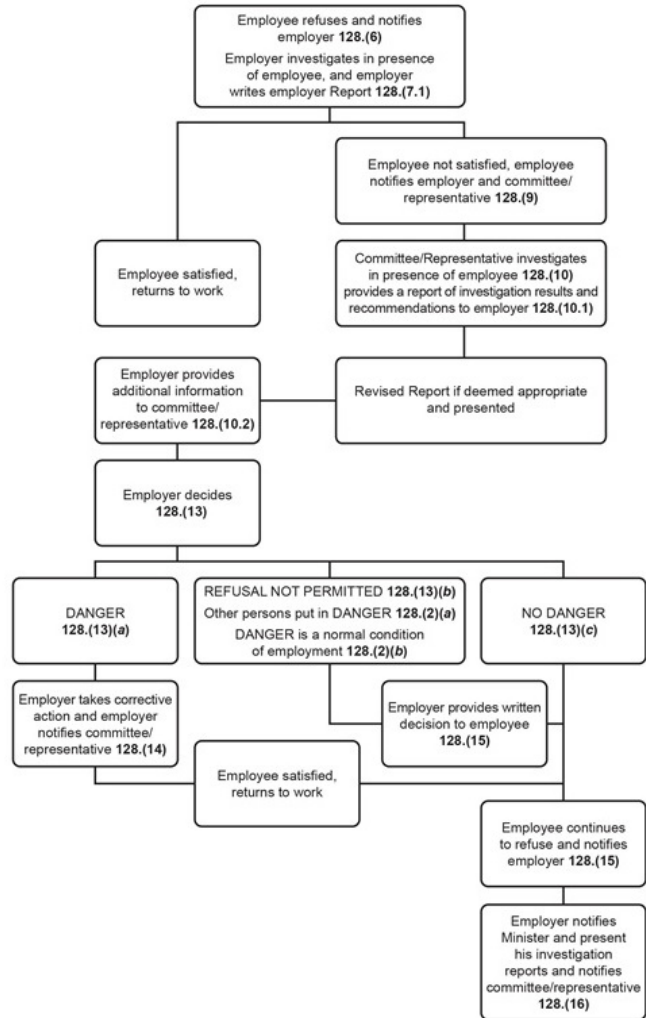
The employer immediately informs the Minister of Labour, or the Health and Safety Officer, and the workplace committee/representative. The employer then provides them with a copy of both investigation reports.

Health and Safety Officer's Decision

The Minister or the health and safety officer, having been informed of the employer's decision and the continued refusal, may conduct an investigation in the presence of the employer, the employee, an employee-appointed workplace committee member or the health and safety representative. If this is not possible, the investigation shall be conducted in the presence of another employee chosen by the employee concerned. The employee may maintain his or her refusal during this investigation.

The Health and Safety Officer will review the matter taking into consideration the same factors and may make recommendations or issue directions.

Work place refusal to work flow chart



Disciplinary action- References CLC

147 No employer shall dismiss, suspend, lay off or demote an employee, impose a financial or other penalty on an employee, or refuse to pay an employee remuneration in respect of any period that the employee would, but for the exercise of the employee's rights under this Part, have worked, or take any disciplinary action against or threaten to take any such action against an employee because the employee :

c) [...] has acted in accordance with this Part or has sought the enforcement of any of the provisions of this Part.

Workplace
should have
an infection
control plan
with the
following
elements :

- Hand washing facilities
- Alcohol-based disinfectant where hand washing facilities are not available (or for field employees)
- More frequent disinfection with ordinary disinfectants of frequently touched objects such as door handles, other handles, handrails, railings, kettles, etc.
- Ventilation system in good condition
- Personal Protective Equipment when no other option is available
- Adequate training on risks and protection techniques

Are you or
someone you
represent
deemed
essential or
critical?

From Treasury Board;

Managers are to consider telework for all employees, at all work sites, and identify an approach that is flexible while ensuring continued critical government operations and services to Canadians.

Federal organizations must identify and determine how to manage through exceptional situations that do not lend themselves to telework such as: critical services requiring on-site presence; security limitations; other operational imperatives where there are no alternatives.

Any disputes with the employer decision? Bring concerns forward and if not resolved use the Right to Refuse!

Currently
teleworking?
An
appropriate
work space at
home may
include :

- A space or room where it is easy to concentrate - preferably separate from other living areas and away from the television
- Level of security as required by the workplace
- Necessary telephone lines (separate from family line if required) and answering machine or voice mail
- Telephone line or cable for e-mail and Internet connections, if necessary
- Control over temperature, light and sound
- Household members who will understand you are working and will not disturb you unnecessarily
- Ergonomically safe

Mental health



1. Understand the fight-or-flight response
2. Be selective about news sources
3. Consider the practical value of the information
4. Don't discount the power of language
5. Set boundaries on news consumption

Useful information!

PSAC: <http://psacunion.ca/covid-19>

Health Canada: <https://www.canada.ca/en/public-health/services/diseases/2019-novel-coronavirus-infection.html>

Centre of Expertise on Mental Health in the Workplace: <https://www.canada.ca/en/government/publicservice/wellness-inclusion-diversity-public-service/health-wellness-public-servants/mental-health-workplace.html>

Canada Labour Code: <https://laws.justice.gc.ca/eng/acts/L-2/page-23.html#h-341197>

Ontario Occupational Health and Safety Act: <https://www.ontario.ca/laws/statute/90o01>

Quebec Act Respecting Occupational Health and Safety: <http://legisquebec.gouv.qc.ca/en/showdoc/cs/S-2.1?>

Canadian Centre for Occupational Health and Safety: <https://www.ccohs.ca/>

Ergonomics: <https://www.mayoclinic.org/healthy-lifestyle/adult-health/in-depth/office-ergonomics/art-20046169>



Thank you

Questions and answers

- Marc Béland, Regional Health and Safety Officer: belandm@psac-afpc.com