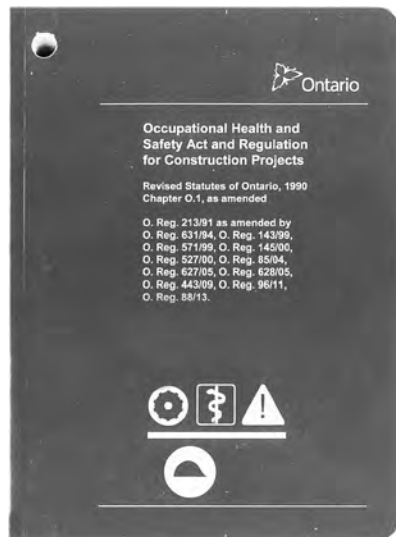


## 1 RIGHTS AND RESPONSIBILITIES

An essential part of Ontario's health and safety legislation is the importance of having a strong "Internal Responsibility System" (IRS). The basis of this concept is that everyone in the workplace has a direct responsibility for health and safety. Whether you are a worker, a supervisor, or the owner of the company, health and safety is your responsibility.

Each workplace party on a construction project has certain duties and responsibilities that contribute to a safe and healthy workplace. These health and



**Figure 1-1: Ontario's OHSA and Regulations for Construction Projects (the green book)**

safety responsibilities are specified in the current *Occupational Health and Safety Act and Regulations for Construction Projects*, commonly known as the "green book" (Figure 1-1).

Before beginning work, it is important for everyone on the project to know and understand their legal rights, responsibilities, and duties.

Section 25(2)

(i) of the OHSA requires employers to post a copy of the Act in English and in the majority language of the workplace.

**Remember—safety begins with you!**

### Duties of a Constructor

The duties of a constructor are found in section 23 of the OHSA as well as other sections of the Act and in the Regulation for Construction Projects (213/91). Some of the basic duties are as follows.

- Appoint a "competent person" as a supervisor if 5 or more workers are on the project at the same time. Ensure that the project is supervised at all times.
- Ensure that a project lasting more than 3 months and having 20 or more workers has a Joint Health and Safety Committee (JHSC).
- If a JHSC is not required and there are more than 5 workers, the workers must select a Health and Safety Representative.

- Complete a Ministry of Labour (MOL) Form 1000—Registration of Constructors and Employers Engaged in Construction.
- Send a Notice of Project (Form 0175) to the MOL. Note: You can also submit a notice of project form online. However, you must print out a copy of the electronic version and post it on site.
- Keep a copy of all employer-approved registration forms (e.g., Form 1000, Form 0175) on site while employers are on the project.
- Develop written emergency procedures and post them on site. Make sure workers and subcontractors know what they are and are following them.
- Ensure ready access to a telephone, two-way radio, or other system in the event of an emergency.
- Report a fatality, critical injury, or other prescribed incident such as a critical injury to the MOL.

As defined by the OHSA, a "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
- c) has knowledge of any potential or actual danger to health or safety in the workplace.

### Duties of an Employer

Many of the duties of an employer are specified in sections 25 and 26 of the OHSA. Some of the basic duties are as follows.

- Ensure that the OHSA and all regulations are complied with.
- Provide and maintain all prescribed equipment, materials, and protective devices.
- Ensure that prescribed measures and procedures are carried out.
- Take every precaution reasonable in the circumstances for the protection of workers.
- Prepare a written health and safety policy and develop a program to implement it (if you have more than five workers).
- Appoint a competent person as a supervisor if 5 or more workers are on the project at the same time. Ensure that workers are supervised at all times.
- Provide workers with training as required by law (Working at Heights, WHMIS, etc.).
- Ensure workers are qualified to do work that must be done only by qualified workers (electricians, pipe fitters, etc.).
- Develop written procedures for rescuing a worker whose fall has been arrested (i.e., a worker hanging by a harness).
- Ensure all workers on site are at least 16 years of age.

## Duties of a Supervisor or Foreperson

Many of the duties of a supervisor are specified in section 27 of the OHSA. Some of the basic duties are as follows.

- Ensure that workers use the methods, procedures, and equipment required by the OHSA and all regulations.
- Ensure that workers use or wear equipment, protective devices, or clothing that is required by the employer.
- Advise workers about actual or potential health and safety hazards.
- Give workers written instructions on the measures and procedures to protect themselves, when required.
- Take every precaution reasonable to protect workers.
- Supervise workers personally or have an assistant, who is a competent person, do so.
- Inspect the workplace, machinery, etc., once a week.

## Duties of a Worker

Many of the duties of a worker are specified in section 28 of the OHSA. Some of the basic duties are as follows.

- Comply with the health and safety legislation.
- Never use or operate any equipment or machinery or work in a way that could put yourself or other workers in danger.
- Never remove or make ineffective any protective device.
- Select worker representatives for the JHSC.
- Report any violations of the OHSA, any defective equipment, or any workplace hazard to the employer or supervisor.
- Use or wear the equipment, protective devices, or clothing that is required by the employer.
- Never engage in horseplay on site (pranks, competitions, showing off your strength, roughhousing, or unnecessary running).

In addition to the duties outlined in the OHSA and applicable regulations, there may be jobsite-specific rules that workers must follow.

### Did You Know?

In 2014, the definition of **"worker"** in section 1(1) of the OHSA was amended to include unpaid interns, co-op students, and certain other learners and trainees participating in a work placement program. However, volunteers are not covered by this new definition.

## Rights of a Worker

Workers in Ontario have three basic rights:

- 1. The right to know** what hazards are in the workplace (The employer has a duty to give that information to the Health and Safety Representative or JHSC.)
- 2. The right to participate** in keeping the workplace healthy and safe by joining a Health and Safety Committee or becoming a Health and Safety Representative.
- 3. The right to refuse unsafe work** that the worker believes endangers their health or safety or the health or safety of others (Figure 1-2). For more information, refer to the OHSA, s. 43.

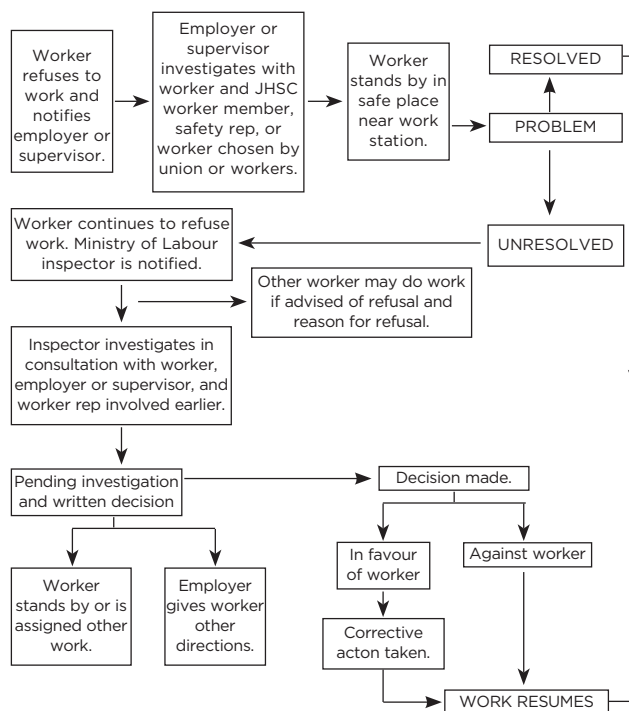
### Right to Refuse Unsafe Work

All workers should be aware of and knowledgeable about the local/on-site procedures for refusing unsafe work. Workers should talk to their supervisor first and try to resolve the problem before initiating the work refusal process.

If that proves unsuccessful, workers should follow the procedures for refusing unsafe work as outlined in Figure 1-2 and in section 43 of the OHSA.

**Remember: Workers have a duty to report all potential hazards and unsafe conditions to their employer.**

**Figure 1-2: Right to Refuse Work Where Health or Safety in Danger**  
(Occupational Health and Safety Act, Part V)



**Health and Safety Representative**

A Health and Safety Rep is required when more than 5 workers are regularly employed at a construction project and the work is expected to last less than three months or when 6 to 19 workers are employed and the work is expected to last more than three months (Table 1-1).

In addition to the principle functions of a H & S Rep listed below, other powers and responsibilities can be found in section 8 of the OHSA.

Requirements of a Health and Safety Rep:

- Must be selected by workers from among the other workers on the site. If the workers are represented by a trade union, then the selection is made by the union or unions representing them.
- Is familiar with the current green book, the emergency response procedures, and the refusal for unsafe work procedures (Figure 1-2).
- Inspects the project at least once a month (or part of the project each month, with the whole project covered at least once a year).
- Makes recommendations or reports findings about any hazards to the employer.
- Gets information from the employer about testing of equipment or materials at the project. When a hazard is suspected at the project, it is often necessary to carry out tests to assess the hazard.
- Is present during an investigation of a work refusal.
- Is consulted about testing and is present to ensure test results are valid.
- May inspect the scene of a critical injury or death.
- Reports the findings to a Ministry of Labour Director.



If a health and safety representative is required on your site, you are legally obligated to identify them by name, trade, and employer. IHSA's *Health and Safety Representative Poster* (P029) can help workers know who their representative is on site

**Figure 1-3: H & S Representative Poster (P029)**

**Joint Health and Safety Committee (JHSC)**

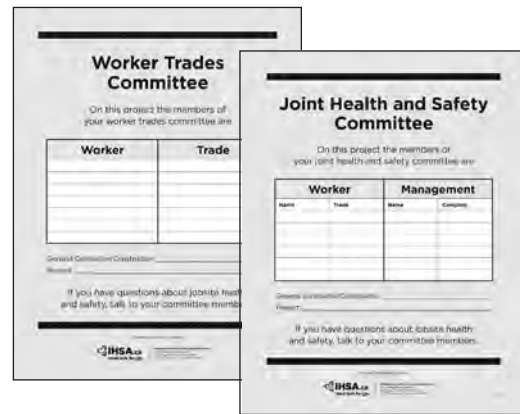
A JHSC is required when 20 or more workers are regularly employed at a construction project and the work is expected to last more than three months (Table 1-1).

In addition to the principle functions of a JHSC listed here, other powers and responsibilities can be found in section 9 of the OHSA.

Requirements of a JHSC:

- Identifies actual and potential hazards in the workplace.
- Inspects the workplace at least once a month or, if that is not practical, inspects the workplace at least once a year and at least part of the workplace each month in accordance with a schedule agreed upon by the committee and the employer (constructor).
- Is consulted about and present at the beginning of any testing related to health and safety in the workplace.
- Makes recommendations to the employer about health and safety in the workplace.
- Participates in the first and second-stage investigation of work refusals and inspects workplaces when there are critical injuries or fatalities.
- Is composed of an equal number of worker and employer representatives.

If a JHSC is required on your site, you are legally obligated to identify the members by name, trade, and employer. IHSA's *Joint Health and Safety / Worker Trades Committee Poster* (P041) can help workers know who their committee members are on site. The poster is double-sided, with JHSC members on one side and WTC members on the other side (Figure 1-4).



**Figure 1-4: JHSC/WTC Poster (P041)**

**Certified Members of a JHSC**

Where a project regularly employs 50 or more workers, the JHSC on the project must have at least one member representing workers and one member representing the constructor who are certified members (Table 1-1).

If no members of a health and safety committee are certified, the workers and constructor must each select one member of the committee to become certified.

**Table 1-1: Health and Safety Representatives and JHSC Requirements under the OHS Act**

Size and Duration of Project	Representative or Committee	Number of Members	Membership Requirements	Selection of Members	Powers and Rights
<b>1 to 5 workers</b>	<b>None (unless the workplace uses designated substances)</b>				
<b>6 to 19 workers</b> (on a project lasting more than 3 months) <b>OR</b> <b>6 plus workers</b> (on a project lasting less than 3 months)	One Health and Safety Representative  JHSC (if the workplace uses designated substances)			Selected by the other workers or their union(s)	<ul style="list-style-type: none"> <li>Obtain information from a constructor or employer regarding the testing of equipment, materials, or chemicals in the workplace.</li> <li>Inspect the workplace at least once a month, with the full cooperation of constructor, employers, and workers.</li> <li>Ask for and obtain information regarding existing or potential hazards in the workplace.</li> <li>Make health and safety recommendations to a constructor or employer, who must respond in writing within 21 days, either giving a timetable for implementation or giving reasons for disagreeing with the recommendations.</li> <li>Where a person has been killed or critically injured in the workplace, investigate the circumstances of the accident and report findings to a director of the Ministry of Labour.</li> <li>Exercise all the powers granted to the Health and Safety Representative by virtue of a collective agreement.</li> </ul>
<b>20 to 49 workers (on a project lasting more than 3 months)</b>	Joint Health and Safety Committee (created by the constructor)	At least two	At least one non-management worker at the project and one management representative from the project if possible	Worker representatives selected from the site by workers or trade union(s) represented.  Management representatives selected by constructor or employer.	<ul style="list-style-type: none"> <li>Identify situations that may be a source of danger or hazard to workers.</li> <li>Make recommendations regarding health and safety matters.</li> <li>Recommend the establishment, maintenance, and monitoring of programs.</li> <li>Obtain information from constructors or employers regarding testing of equipment or environments and be present when testing is initiated.</li> </ul>
<b>50 plus workers (on a project lasting more than 3 months)</b>	Joint Health and Safety Committee (created by the constructor)	At least four	Half non-management workers from the workplace with at least one certified.  Half management representatives from the workplace if possible with at least one certified.	Worker representatives selected from the site by workers or trade union(s) represented.  Management representatives selected by constructor or employer.	Advise the JHSC of the health and safety concerns of the workers in the trades at the workplace.
	Worker Trades Committee (created by the JHSC)	At least one worker representative from each trade	One worker representative from each trade	Members to be selected by trade workers or trade union(s) at the site. Members do not have to be workers at the site.	



### Training for Certified Members

On March 1, 2016, a new JHSC Certification Training Standard came into effect. Training providers must be approved by the Chief Prevention Officer (CPO) and their training program must meet the Training Program Standard.

Under the new Program Standard, there are three JHSC Certification Training courses:

1. JHSC Certification Part One (generic)
2. JHSC Certification Part Two (sector-specific)
3. JHSC Certification Refresher

JHSC members trained under the new standard will be required to take a JHSC Certification Refresher course every three years to maintain their certification. JHSC members certified under the 1996 Standard (prior to February 29, 2016) do not need to retake any certification training under the new standard, including a refresher course.

A certified member who receives a complaint regarding a dangerous circumstance can investigate the complaint under the authority of the OHSA. The member may also ask a supervisor to investigate a situation where the member "has reason to believe" that a dangerous circumstance may exist. The supervisor must investigate the situation promptly in the presence of the certified member.

The certified member may also request that another certified member representing the other party at the workplace investigate the situation if the first certified member "has reason to believe" that the dangerous circumstance still exists after the supervisor's investigation and remedial action, if any, has been taken.

The second certified member must promptly investigate the situation in the presence of the first certified member and, if both certified members agree, they may direct the constructor or employer to stop work or stop the use of any part of the workplace, including machines and other equipment. The constructor or employer must immediately comply with the order.

If both certified members do not agree that a dangerous circumstance exists, either may request that a Ministry of Labour inspector investigate the situation. The inspector must investigate and provide both members with a written decision.

### Ministry of Labour Inspectors

An MOL inspector can visit a project or workplace at any time and exercise fairly broad powers to inspect, ask questions, and issue orders. If the inspector approaches a worker directly, the worker must answer questions and cooperate. The supervisor must be informed of any orders issued or directions made.

In some cases, the H & S Representative, worker member of a JHSC, or worker selected by fellow workers or the union has a right to take part in an incident investigation.

The results of the incident investigation should be made known to all personnel on site. Recommendations should be implemented to prevent the incident from happening again.

### Planning and Communication

Planning for health and safety should be done before the project starts and before each new phase. On many construction projects, workers from different companies may be working at the same time. It is important for the general contractor to work with their sub-contractors to anticipate and identify all the hazards that will be created and to ensure that necessary precautions are taken and the proper procedures are communicated to all workers.

If something does go wrong on a construction site, the employer must prove "due diligence". This means "reasonable steps that a person or company takes to satisfy a legal requirement." The employer must be able to document that every reasonable precaution was taken to keep people safe on the project.

A **Due Diligence Checklist** is available to download from the **Small Business** section of IHSA's website ([ihsa.ca/smallbusiness](http://ihsa.ca/smallbusiness)). Employers can use it as a guideline to help ensure that they're meeting their legal obligations.

### Health and Safety Policy and Program

Under the OHSA, every workplace with more than five employees must have a written health and safety policy and a program to implement that policy. Records must be kept indicating that workers have been trained, inspections have been done, and health and safety procedures have been followed.

Visit the **Policy and Program Resources** section of [ihsa.ca](http://ihsa.ca) for tools and templates you can use to develop or update your company's health and safety policy and program.

### Job Safety Analysis (JSA)

A job safety analysis (JSA) is a systematic breakdown of work steps for a specific job in a specific location. It identifies the hazards associated with that job and determines the controls necessary to prevent these hazards.

By completing a JSA for common tasks on the site, you ensure that you have planned the work properly and that workers can do it safely. As a written document, it can serve as evidence of due diligence.

For more information about creating a JSA, refer to Appendix A at the end of this manual.

## Jobsite Safety Talks

Jobsite talks can help prevent accidents and injuries by promoting hazard awareness in the workplace. Supervisors should present safety talks on a regular basis and follow these guidelines.

- Before presenting a prepared talk, look it over. Instead of reading the talk to your crew, use your own words. Your natural manner will be more effective than a formal presentation.
- Choose subjects that are directly related to site conditions or the company's health and safety policy and program.
- Encourage participation. Get the crew to talk about close calls and hazards. Solutions to these problems can become the subject of future talks.
- Make a note of any hazards the crew may mention as well as any suggestions for improving health and safety. Subjects requiring management attention should be referred to management.
- Always follow up. Tell the crew what has been done to correct problems and improve conditions on the job.

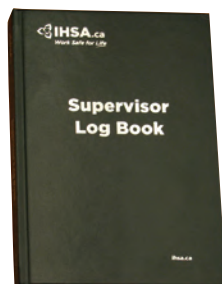
**Over 120 safety talks** are available to download from the IHSA website. Members can also order the *Safety Talks Manual (V005)* for free (Figure 1-5).



Figure 1-5: Safety Talks Manual (V005)

## Log Book

Another way to demonstrate due diligence is to keep a log book or journal of daily events on the jobsite. A log book can tell the story of a project in case you have to answer questions about it later or provide documentary evidence in case of a legal dispute (e.g., being charged by the MOL under the OHS).



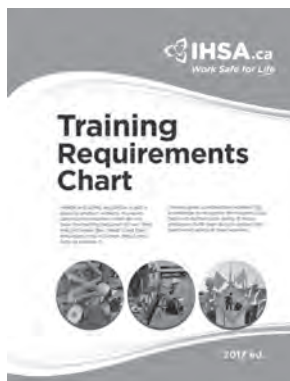
IHSA's *Supervisor Log Book (RF008)* contains safety talks, a job safety analysis (JSA) form, a due diligence checklist, inspection checklists, an employee orientation checklist, and other helpful resources to improve communication, planning, and coordination on a job (Figure 1-6).

Figure 1-6: Supervisor Log Book

## Training and Orientation

Training gives workers the knowledge to recognize and avoid the hazards they face and do their jobs safely. However, construction workers often do not have the training required by law. They may not know they need it and their employers may not know they have a legal duty to provide it.

The OHS and Construction Projects regulation assigns many responsibilities to a **competent person** or **competent worker**. By definition, the person or worker must be qualified because of **knowledge, training, and experience** to either organize or perform the work. Therefore, anyone doing work assigned to a competent person or competent worker **MUST** be trained.



Refer to the **Training Requirements Chart** in Appendix B for more information about the training required by Ontario's health and safety legislation for different types of construction jobs and the hazards that workers may encounter on a site. This document is also available on [ihsa.ca](http://ihsa.ca) as a free download (see *Training Requirements Chart (W001)*).

Statistics show that about 20% of all injuries to workers occur within their first 30 days on the job. This fact highlights the importance of orientation.

Newly hired workers may be young or old, male or female, experienced or inexperienced in construction. The worker may be new to the site, new to the type of work, or new to the company. Any worker coming to any project for the first time should be considered a new worker and should be given proper orientation and training.

New employees must be told and, if necessary, trained and shown what is expected of them in

- work performance
- safe operation of tools and equipment
- procedures around hazardous materials
- proper use of any required personal protective clothing and equipment.

They must also be told the name of the worker Health and Safety Representative or worker JHSC member and shown the location of

- first aid kit or first aid station
- fire alarms and exits
- fire extinguishers and standpipes
- emergency telephones
- eyewash station
- supervisor's office
- tool crib
- washrooms
- lunchroom.

These locations can be pointed out during a tour of the workplace when the new worker is introduced to co-workers, supervision, and the Health and Safety Representative.

To make orientation successful, supervisors should follow some simple steps.

- Talk to new employees. Put them at ease. Find out how much they know already. Explain why their job must be done right, how it relates to the rest of the operation, and what hazards may be involved.
- Explain assignments carefully to new workers. Tell them, show them, and ask questions to make sure they understand. Cover one step at a time. Make key operations and safety points clear. Be patient and go slowly.
- Test the new worker's performance on the job. Watch while the job is being done. Commend good work. When necessary, show how the job can be done more safely and efficiently.
- Let new workers continue on their own. Tell them who to contact for help and encourage them to get help when needed.
- Follow up. Check on work frequently at first. Look for any bad habits, unnecessary motions, or unsafe acts that need correcting. Ease off when you're convinced that workers are doing the job safely and correctly.

An **Employee Orientation Checklist** is available to download from the **Small Business** section of IHSA's website ([ihsa.ca/smallbusiness](http://ihsa.ca/smallbusiness)).

## Accidents and Injuries

No matter how small an injury appears, it should be reported to the employer. If making a WSIB claim, it may be difficult to prove that the injury was work-related if it wasn't reported immediately. Also, reporting near misses and minor incidents can help employers and supervisors put protections in place to reduce the risk of more serious injuries.

Procedures for reporting accidents—and the type of accidents that must be reported—are spelled out in the green book. See Table 1-2 for more information or contact the Workplace Safety and Insurance Board (WSIB) and MOL.

In all cases of injury, the **EMPLOYER** must do the following.

1. Make sure that first aid is given immediately, as required by law.
2. Record the first aid treatment or advice given to the worker.
3. Complete and give a **Treatment Memorandum** (Form 156) to the worker if health care is needed.
4. Provide immediate transportation to a hospital or a physician's office, if necessary.

5. Submit an **Employer's Report of Injury/Disease** (Form 7) and any other information that may be required to the WSIB within three days of learning of an accident.
6. Pay full wages and benefits for the day or shift on which the injury occurred if the worker is entitled to compensation for loss of earnings.
7. Notify the MOL, H & S Rep and/or JHSC, and trade union as required by legislation.

The **WORKER** must do the following.

1. Promptly obtain first aid.
2. Notify the employer, foreperson, supervisor, and worker safety representative immediately of an injury requiring health care and obtain from the employer a completed **Treatment Memorandum** (Form 156) to take to the physician or the hospital. Failure to report promptly can affect your benefits and subject your employer to fines.
3. Choose a physician or other qualified practitioner with the understanding that a change of physician cannot be made without permission of the WSIB. The medical professional must submit a **Health Professional's Report** (WSIB Form 8).
4. If an injury requires medical treatment, time off work, lost wages, or modified duties, file a **Worker's Report of Injury/Disease** (WSIB Form 6). Complete and promptly return all report forms received from the WSIB.

## Post on Site Checklist

The OHSA, construction regulations, Workplace Safety and Insurance Act (WSIA), and Employment Standards Act (ESA) specify items that must be posted or available at a jobsite.

- Occupational Health and Safety Act and Regulations for Construction Projects* (the "green book")
- Regulation 1101: First Aid Requirements (under the WSIA)
- Company health and safety policy and program
- Company workplace violence and harassment policy
- Ministry of Labour inspector's orders and report
- (M)SDS of any hazardous physical agents that may be used at the jobsite (available)
- Emergency response plan

- Fall arrest rescue procedures (available)
  - WSIB's *In Case of Injury* poster (P085 available at [ihsa.ca](http://ihsa.ca))
  - MOL's *Health & Safety at Work: Prevention Starts Here* poster
  - MOL's *Employment Standards in Ontario* poster (under the ESA)
  - MOL Form 0175: Notice of Project (if applicable under O. Reg. 213/91, s.6)
  - MOL Form 1000: Registration of Constructors and Employers Engaged in Construction (available)
  - Name of constructor and head office info
- Address and phone number of the nearest MOL office
  - DANGER signs in hazardous areas (if applicable)
  - Location of toilets and clean-up facilities
  - Valid certificate of first aider on duty
  - Inspection card for first aid box
  - Employer records of first aid treatment given (available)
  - Name, trade, and employer of JHSC members or Health and Safety Representative
  - Emergency phone numbers and location of nearest hospital (Use P103: *Emergency Response* Poster available from [ihsa.ca](http://ihsa.ca))

**Table 1-2: Reporting Requirements for an Accident, Injury, or Fatality**

Occurrence	Notification Required	Notice Given By	Notice Given To	Legislation
<b>Fatality or Critical Injury</b>	Immediately by telephone or other direct means	<ul style="list-style-type: none"> <li>• Constructor</li> <li>• Employer</li> </ul>	<ul style="list-style-type: none"> <li>• MOL</li> <li>• JHSC</li> <li>• H &amp; S Rep</li> <li>• Trade Union</li> </ul>	<ul style="list-style-type: none"> <li>• OHSА, 51(1)</li> <li>• Reg. 834 (Definition of critical injury)</li> <li>• Reg. 213/91, s.8 (Information required in the written report)</li> </ul>
	Written report within 48 hours	Employer	Director at MOL	
<b>Accident, Explosion, Fire, or Violence causing injury (requires medical attention and prevents worker from performing work)</b>	Written notice within four days of the occurrence	Employer	<ul style="list-style-type: none"> <li>• JHSC</li> <li>• H &amp; S Rep</li> <li>• Trade Union</li> <li>• MOL (if an inspector requires notification of the Director)</li> </ul>	<ul style="list-style-type: none"> <li>• OHSА, 52(1)</li> <li>• Reg. 213/91, s.9 (1)</li> <li>• (Information required in the written notice)</li> </ul>
<b>Occupational Illness</b>	Written notice within four days of being advised	Employer	<ul style="list-style-type: none"> <li>• MOL</li> <li>• JHSC</li> <li>• H &amp; S Rep</li> <li>• Trade Union</li> </ul>	<ul style="list-style-type: none"> <li>• OHSА, 52(2)</li> <li>• Reg. 213/91, s.9 (2) (Information required in the written notice)</li> </ul>
<b>Accident, Explosion, Fire, Flood, Equipment Failure, Cave-in, or Prescribed Incident (at a project site, mine, or mining plant)</b>	Written notice within two days after the occurrence	Constructor or Owner	<ul style="list-style-type: none"> <li>• JHSC</li> <li>• H &amp; S Rep</li> <li>• Trade Union</li> <li>• MOL (unless a report or notice has already been given under section 51 or 52)</li> </ul>	<ul style="list-style-type: none"> <li>• OHSА, 53</li> <li>• Reg. 213/91, s.11 (1) (List of prescribed incidents)</li> </ul>
<b>Failure of:</b> <ul style="list-style-type: none"> <li>• Temporary or permanent works</li> <li>• Structure</li> <li>• Excavation wall</li> <li>• Crane or hoisting device.</li> </ul>	Professional engineer's written opinion about the cause of the incident within 14 days after the occurrence (in addition to the written notice or report under s.51(1), 52, or 53)	Constructor or Employer	<ul style="list-style-type: none"> <li>• MOL</li> <li>• JHSC</li> <li>• H &amp; S Rep</li> <li>• Trade Union</li> </ul>	Reg. 213/91, s.12