

MINISTRY OF LABOUR, TRAINING AND SKILLS DEVELOPMENT CONSULTATION NOTICE

Modernizing Regulatory Requirements prescribed for Part VII – Notices under the *Occupational Health and Safety Act*

All workplaces covered by the [Occupational Health and Safety Act \(OHSA\)](#) are required to provide notice and reports to the Ministry of Labour, Training and Skills Development (MLTSD) and/or other specified workplace parties of any fatalities, critical injuries, occupational illnesses and other prescribed incidents or occurrences at the workplace. These obligations would remain unaffected by this proposal.

Depending on the workplace, the information to be reported may be prescribed in one of eight regulations under OHSA including:

- [O. Reg. 213/91 - Construction Projects \(sections 8 - 12\)](#)
- [O. Reg. 67/93 - Health Care and Residential Facilities \(sections 5 and 6\)](#)
- [O. Reg. 629/94 - Diving Operations \(sections 10 and 11\)](#)
- [Regulation 851 - Industrial Establishments \(sections 5 and 6\)](#)
- [Regulation 854 - Mines and Mining Plants \(section 21\)](#)
- [Regulation 855 - Oil and Gas – Offshore \(sections 7 - 10\)](#)
- [Regulation 861 - X-Ray Safety \(sections 13 and 14\)](#)
- [Regulation 859 - Window Cleaning \(sections 5 and 6\)](#)

Reporting requirements prescribed in these regulations are similar, yet different from one another. Some workplaces do not fall under one of these regulations such as farms, schools, amusement parks, police and fire services. For these workplaces the onus is left to the employer to determine what information should be reported. To assist employers and constructors in meeting their obligations, MLTSD is proposing to streamline written reporting requirements into a single regulation that would apply to all workplaces covered under the OHSA.

Further details on the regulatory proposal are set out below:

Definitions

Critical Injury

The proposed regulation would incorporate the definition of critical injury as it is currently set out in [Regulation 834 – Critical Injury – Defined](#).

Medical Attention

Subsection 52(1) of the OHSA requires notification where a person is disabled from performing his or her usual work or requires *medical attention* because of an accident, explosion, fire or

incident of workplace violence at the workplace, but no person dies or is critically injured because of that occurrence.

Since *medical attention* is not defined, there can be uncertainty among MLTSD stakeholders as to whether injuries treatable by basic first aid must be reported under subsection 52(1). To address this, the MLTSD is proposing to define *medical attention* as requiring an assessment or treatment from a legally qualified medical practitioner. This proposed change clarifies that non-disabling injuries assessed and treated using basic first aid methods are not notifiable under subsection 52(1) of OHSA.

Application

The proposed regulation would apply to all workplaces to which the OHSA applies.

Sections 51 and 52 Written Notices and Reports

The proposed regulation would set out the written reporting requirements for incidents involving a worker. In recent years, the definition of worker¹ under the OHSA has been broadened to include some individuals who work and supply services for no monetary compensation such as secondary students and post secondary students working in work programs approved by their institution.

Section 51 of the OHSA applies to incidents involving “persons.” Reporting an incident to the MLTSD and workplace parties under section 51 of the OHSA involving persons² who are not workers would remain the same, however there would be no prescribed reporting requirements in regulation. This recognizes that it may not be reasonable nor feasible for an employer to obtain this information for persons who are not workers. If required, additional information needed by the MLTSD may be obtained by other methods such as requesting a copy of the police report, if any, or contact with an employer.

Motor Vehicle Incidents (MVIs)

The written reporting requirements set out in the proposed regulation would be restricted to MVIs on private roads and MVIs involving one or more workers working at, on or near a highway³, such as MVIs involving workers on a construction project. This approach would recognize MLTSD as the investigative lead with respect to incidents occurring on private roads (e.g. logging) and projects, and a police service as the investigative lead with respect to incidents occurring on public highways. If required, additional information needed by the MLTSD to support investigations may be obtained by other methods.

¹ See [OHSA subsection 1\(1\)](#) Definitions.

² Under the OHSA, notification is required if a person is killed or critically injured at the workplace and there is a reasonable connection between the hazard that led to the critical injury or death and workers' health and safety. See <https://www.ontario.ca/page/reporting-workplace-incidents-or-structural-hazards#critical-injury>.

³ Highway as defined under the *Highway Traffic Act*, or on the private toll highway known as Highway 407.

Written Reporting Requirements

The proposed regulation would list a single set of written reporting requirements to be included in the written notices or reports (sections 51-52 of the OHSA).

These requirements would include:

- The name, address and type of business of the employer,
- The name and address of the constructor, for incidents where a worker was killed or critically injured on a project.
- The name, and address or other contact information as appropriate of the worker who was killed or critically injured, disabled from performing his or her usual work, required medical attention from a legally qualified medical practitioner, or sustained an illness.
- The time, date and place of the occurrence.
- The nature of the bodily injury or occupational illness.
- The nature and circumstances of the occurrence, including a description of any machinery, equipment or procedure involved.
- The names, and address or other contact information as appropriate of all witnesses to the occurrence, if any.
- The name and address of the legally qualified medical practitioner or facility who treated the injured or ill worker, if applicable.
- The steps taken to prevent a recurrence.

Sections 53 (OHSA) notices (non-injury incidents)

The notifiable incidents set out in and/or prescribed under section 53 of the OHSA would remain unchanged in the proposed regulation. Prescribed notifiable incidents can be found in the following regulations:

- [O. Reg. 213/91 - Construction Projects \(section 11\)](#)
- [O. Reg. 629/94 - Diving Operations \(sections 10\)](#)
- [Regulation 854 – Mines and Mining Plans \(section 21\)](#)
- [Regulation 861 - X-Ray Safety \(sections 13 and 14\)](#)

The proposed regulation would list a single set of written reporting requirements to be included in the written notices under section 53 of the OHSA.

These requirements include:

- For incidents on projects, the name and address of the constructor.
- For all other notifiable incidents, the name, address and type of business of the employer.
- The time, date and place of the occurrence.
- The nature and circumstances of the occurrence including a description of any machinery, equipment or procedure involved.
- The steps taken to prevent a recurrence.

Non-Injury Incidents Involving “Failure of any Equipment, Machine, Device, Article or Thing”

Under certain circumstances Section 53 of the OHS Act requires notification be given to MLTSD when there is a “failure of any equipment, machine, device, article or thing.” There can be uncertainty among MLTSD stakeholders about what constitutes a failure and when they need to notify.

The written reporting requirements set out in the proposed regulation would apply to incidents requiring notification under section 53 where *the failure of any equipment, machine, device, article or thing that could have posed a risk to the life, health or safety of any worker.*

This would help clarify the intent of the notification to ensure that corrective actions are taken in order to prevent future failures that could critically injure, harm or be fatal to a worker.

Section 53.1 notices – additional notices

Requirements for notices to be supplemented by the written opinion of a professional engineer or architect within 14 days of an occurrence, as prescribed under [O. Reg. 67/93 - Health Care and Residential Facilities \(section 6\)](#), [Regulation 859 - Window Cleaning \(section 6\)](#) and [O. Reg. 231/91- Construction Projects \(section 12\)](#) remain unchanged.

Records

The proposed regulation would require written reports or notices to be kept by the employer or constructor for at least one year or such longer period as is necessary to ensure the two most recent records are kept.

How to Participate

Stakeholders are invited to submit comments on any or all the proposed changes to modernize regulatory requirements prescribed for Part VII – Notices under the OHS Act.

The consultation period ends February 12, 2021. Submissions may be mailed, faxed, or sent electronically to the following addresses:

Email

WebHSpolicy@ontario.ca

Mail

OHS Act Incident Reporting Project
Health, Safety and Insurance Policy Branch
Ministry of Labour, Training and Skills
Development
400 University Avenue, 14th Floor
Toronto ON M7A 1T7

NOTICE TO CONSULTATION PARTICIPANTS

Submissions and comments provided to the Ministry of Labour, Training and Skills Development (the Ministry) are part of a public consultation process to solicit views on the proposal to Modernize Regulatory Requirements prescribed for Part VII – Notices under the Occupational Health and Safety Act. This process may involve the Ministry publishing or posting to the internet your submissions, comments, or summaries of them. In addition, the Ministry may also disclose your submissions, comments, or summaries of them, to other parties during and after the consultation period.

Therefore, you should not include the names of other parties (such as the names of employers or other employees) or any other information by which other parties could be identified in your submission.

Further, if you, as an individual, do not want your identity to be made public, you should not include your name or any other information by which you could be identified in the main body of the submission. If you do provide any information which could disclose your identity in the body of the submission, this information may be released with published material or made available to the public. However, your name and contact information provided outside of the body of the submission (such as that which may be found in a cover letter, on the outside of an envelope, or in the header or signature of an email) will not be disclosed by the Ministry unless required by law. An individual who provides a submission or comments and indicates a professional affiliation with an organization will be considered a representative of that organization and his or her identity in their professional capacity as the organization's representative may be disclosed.

Personal information collected during this consultation is under the authority of the *Occupational Health and Safety Act* and is in compliance with subsection 38(2) of the *Freedom of Information and Protection of Privacy Act*.

If you have any questions regarding the collection of personal information as a result of this consultation, you may contact the Ministry's Freedom of Information Office, 400 University Avenue, 10th Floor, Toronto, Ontario, M7A 1T7, or by calling 416-326-7786.