



BILL NO. 165

Government Bill

*2nd Session, 62nd General Assembly
Nova Scotia
65 Elizabeth II, 2016*

An Act to Amend Chapter 7 of the Acts of 1996, the Occupational Health and Safety Act

CHAPTER 14
ACTS OF 2016

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR
MAY 20, 2016**

The Honourable Kelly Regan
Minister of Labour and Advanced Education

*Halifax, Nova Scotia
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**An Act to Amend Chapter 7
of the Acts of 1996,
the Occupational Health and Safety Act**

Be it enacted by the Governor and Assembly as follows:

1 Section 3 of Chapter 7 of the Acts of 1996, the *Occupational Health and Safety Act*, as amended by Chapter 28 of the Acts of 2000, Chapters 37 and 66 of the Acts of 2010 and Chapter 24 of the Acts of 2011, is further amended by

(a) adding immediately after clause (ac) the following clause:

(aca) “repeatedly” means occurring more than once within the preceding three year period;

and

(b) adding immediately after clause (ae) the following clause:

(aea) “serious injury” means an injury that endangers life or causes permanent injury;

2 Chapter 7 of the Acts of 1996 is further amended by adding immediately after Section 52 the following Section:

52A (1) Notwithstanding any other provision of this Act, where

(a) a person has repeatedly contravened this Act or the regulations or failed to comply with an order made pursuant to this Act or the regulations;

(b) the contravention or failure posed a risk of serious injury or death to a person; and

(c) the Director has reasonable grounds for believing that the person may in the future further contravene the Act or the regulations or fail to comply with an order made pursuant to this Act or the regulations, in the same or in a similar manner, at the same or at another workplace,

the Director may make an order, in writing, directing the person to provide

(d) details regarding the nature of the work to be conducted or expected to be conducted by that person or an employee of that person; and

(e) the address or location of the workplace at which the work is to be conducted.

(2) An order made pursuant to subsection (1) expires three months from the date it is made unless, before its expiry, it is renewed for a further three-month period by the Director.

(3) There is no limit on the number of times an order made pursuant to subsection (1) may be renewed, provided it is renewed each time before its expiry.

(4) During the time an order issued pursuant to subsection (1) is in effect, the Director may request further updated information from the person against whom the order was made.

3 (1) Subsection 55(2) of Chapter 7 of the Acts of 1996 is amended by striking out “subsection (1)” in the second line and substituting “this Section”.

(2) Section 55 of Chapter 7 of the Acts of 1996 is further amended by adding immediately after subsection (4) the following subsections:

(4A) Subject to the approval of the Director, where an order is made against an employer pursuant to clause (4)(b) or (c), and where

(a) that employer has repeatedly contravened this Act or the regulations or failed to comply with an order made pursuant to this Act or the regulations; and

(b) the contravention or failure posed a risk of serious injury or death to a person,

an officer may, where the officer has reasonable grounds for believing that the same or similar source of danger or hazard to the health or safety of a person exists or will exist at another of the employer’s workplaces or at any part of that workplace, make an order

(c) requiring that work at another of the employer’s workplaces or at any part of that workplace stop until the order to stop work is withdrawn or cancelled by an officer;

(d) requiring that another of the employer’s workplaces or any part of that workplace be cleared of persons and isolated by barricades, fencing or any other means suitable to prevent access thereto until the danger or hazard is removed; or

(e) prohibiting the employer from starting work at another workplace or any part of that workplace.

(4B) When making an order pursuant to subsection (4A), the officer is not required to specify the address of the workplace or any part of the workplace that is the subject of the order.

(3) Subsection 55(5) of Chapter 7 of the Acts of 1996 is amended by adding “or (4A)(d)” immediately after “(4)(c)” in the second line.

4 (1) Subsection 63(1) of Chapter 7 is repealed and the following subsection substituted:

63 (1) The employer shall notify the Director

(a) as soon as possible, but in no case later than twenty-four hours, after a fire, flood or accident at the workplace that causes

(i) unconsciousness,

- (ii) a fracture of the skull, spine, pelvis, arm, leg, ankle, wrist or a major part of the hand or foot,
 - (iii) loss or amputation of a leg, arm, hand, foot, finger or toe,
 - (iv) a third degree burn to any part of the body,
 - (v) loss of sight in one or both eyes,
 - (vi) asphyxiation or poisoning,
 - (vii) any injury that requires the admission to hospital,
- or
- (viii) any injury that endangers the life,

of an employee, unless the injury can be treated by immediate first aid or medical treatment and the person can return to work the following day;

(b) as soon as possible, but in no case later than twenty-four hours, after

- (i) an accidental explosion,
- (ii) a major structural failure or collapse of a building or other structure,
- (iii) a major release of a hazardous substance, or
- (iv) a fall from a work area in circumstances where fall protection is required by the regulations,

at the workplace, whether any person is injured or not; and

(c) immediately when a person is killed from any cause, or is injured from any cause in a manner likely to prove fatal, at the workplace.

(2) Subsection 63(2) of Chapter 7 is amended by

(a) striking out “or mailed” in the fourth line; and

(b) adding “if it is delivered within the time required in subsection (1)” immediately after “Section” in the last line.

(3) Subsection 63(3) of Chapter 7 is amended by

(a) striking out “a” in the first line;

(b) striking out “furnish” in the second line and substituting “notify”;
and

(c) striking out “, with a copy of the notice” in the last line.

5 Section 64 of Chapter 7 of the Acts of 1996 is amended by striking out “that results in serious injury or death” in the second and third lines and substituting “to which subsection 63(1) applies”.

6 Chapter 7 of the Acts of 1996 is further amended by adding immediately after Section 75 the following Section:

- 75A (1) Where the Director has reasonable grounds for believing that
- (a) a person has repeatedly contravened this Act or the regulations or failed to comply with an order made pursuant to this Act or the regulations;
 - (b) the contravention or failure posed a risk of serious injury or death to a person; and
 - (c) the person is or is likely to contravene this Act or the regulations or fail to comply with an order made pursuant to this Act or the regulations,

the Director may apply to a judge of the Supreme Court of Nova Scotia for an injunction to do one or more of the following:

- (d) restrain the person from committing or continuing the contravention;
- (e) require the person to comply with the order;
- (f) restrain the person from carrying on an industry or an activity in an industry for a specific period or until such time as a specific event occurs,

and, where the judge considers it just, the judge may grant the injunction.

(2) The application referred to in subsection (1) must be made in accordance with the *Nova Scotia Civil Procedure Rules*.

(3) For the purpose of subsection (1), a person includes an officer, director, shareholder or another person who participates in the management and who influences the decisions of a corporation that is the subject of an application made pursuant to subsection (1), but does not include

- (a) a lawyer, an accountant or other professional whose primary participation in the management of the corporation is the provision of professional services to the corporation; or
- (b) a receiver or trustee appointed by a court to manage the corporation.

(4) A judge may, on motion, grant an interim injunction pending the hearing of an application for an injunction made pursuant to subsection (1).

(5) Where satisfied that it is fit and just to protect the health and safety of any person, a judge may grant an interim injunction pursuant to subsection (4) on an *ex parte* motion.

(6) An application may be made pursuant to subsection (1) notwithstanding any penalty that may be imposed pursuant to this Act.

7 This Act comes into force on such day as the Governor in Council orders and declares by proclamation.
