



Manitoba Federation of Labour

Brief to the

Minister's Advisory Council for

the Workplace Safety and Health Act

Introduction

The Manitoba Federation of Labour (MFL) represents nearly one hundred thousand unionized workers in the province – members of unions affiliated with the Canadian Labour Congress (CLC). It enables us to consult on a broad basis on issues such as Workplace Safety and Health, drawing on workplaces that represent virtually the entire economic spectrum.

The views from our members are channeled through the MFL Workplace Safety and Health Committee and incorporated in this document to assist you in conducting the first five year review of the amended Act.

Background

Following full public hearings throughout Manitoba, the Minister of Labour introduced Bill 27 in 2002 in an attempt to provide better protection for workers and reduce injuries and illnesses in the workplace. On the whole, the legislation contained many positive improvements in the way joint committees operate. It is now time to review the positives and recommend new provisions that will contribute to a further reduction of injuries.

Changes to W210 The Act made in 2002 provided an important part of the remedy for improving workplace safety and health. Those measures, taken together with better employer and worker focused education, training, greater internal responsibility and accountability have helped reduce workplace injuries and deaths.

The main issues that were detailed in the amended legislation are:

- Expanded duties of Employers,
- Expanded duties for committees,
- Adding duties for Supervisors,
- Training for workers,
- Requiring a formal Health and Safety Program,
- New Regulations,
- Protection for workers and joint committee members,
- Pay continuance for all health and safety activity,
- Offences and penalties.

We wish to provide details regarding these positive changes and how they have impacted our workplaces. We have chosen those improvements that have been felt by the greatest number of committees and workplaces and also the most successful in the reduction of injuries.

Impact of 2002 Amendments

The Act expanded the ***duties and responsibilities of employers*** by ensuring that a supervisor is designated and identified to be responsible for the activities in the workplace. It requires that this supervisor is both competent and knowledgeable to

ensure that work done by employees is carried out in a safe manner and in a way that conforms to the provisions of the Act and its regulations.

The Act clarified and expanded the **duties and responsibilities of Joint Workplace Safety and Health Committees**. Committees have been exercising their new roles by making recommendations, conducting safety inspections at regular intervals, investigating accidents and dangerous occurrences, and the Act allows them to carry out their duties without loss of pay.

The Act gave **duties to supervisors** that require them to protect workers by ensuring their workers are performing work according to safe procedures and in compliance with the Act, that workers use safety devices and personal protective equipment, and by advising workers of the risks related to the work being done.

The Act now stipulates that there be **training for workers** before they begin working and when they change jobs or work areas within the workplace. The Act also provides that employees can work while they're being trained if they are supervised or working with a person who is fully trained and experienced.

Another positive aspect of the Act stipulates that full wages are paid during the training period so that workers are neither penalized for taking safety training nor rushed to finish the training to gain the full rate of pay.

The Act requires that in workplaces where there are twenty or more employees (or an aggregate twenty employees in a multi-site workplace), a **written Workplace Safety and Health program** will be put in place. The Act also established the contents of the program to include the identification of risks and controls, a regular inspection schedule, a plan to control chemicals and biological agents, procedures for sub-contractors and non-employees on the work site, training for workers and supervisors, workplace injuries - dangerous occurrences - and work refusal investigations, worker participation and program reviews.

The Act streamlined **regulations** and made them more comprehensive by being easier to read and applying them to any person in the workplace and not just workers. The Act also created regulations covering the establishment of safety and health programs, providing alternative employment to pregnant or nursing workers and workers at risk from exposure to chemical or biological substances, the prevention of workplace violence, harassment and administrative penalties.

The Act provided that when workers exercise the Right to Refuse work that could injure them or others in the workplace, the employer will assign them other work or if other work is not available, pay in lieu of, until the work is made safe. This provision brought Manitoba into step with many other jurisdictions in Canada. Until then, many workers were reluctant to refuse unsafe work since it could result in loss of pay under the "no work, no pay" principle.

The Act required **employers to act on recommendations** made by the joint committee, or to provide reasons in writing.

The Act established **Administrative Penalties** that apply when an employer fails to comply with a workplace improvement order. This has been an important inducement for complying with the provisions and regulations of the Workplace Safety and Health Act.

These are positive changes that have contributed to the decline of reported injuries and increases in prevention programs in our workplaces. However, there is still more to be accomplished and further changes that will contribute to reducing the injury rate beyond the target of 25% of 2002 rates.

What's Missing

- There is no protection for workers against **psychological** harassment leading to workplace bullying. When harassment was addressed by the changes and subsequent Regulation, the issue of bullying was not included. Due to the high number of instances reported, particularly in health care, the MFL requests that an amendment to address psychological harassment be brought forward and included in amendments to the Act.
- We need a clear **definition** of training or what is required to deem a person trained. We expect that a properly trained person is able to show levels of **comprehension and proficiency**. Comprehension means being able to confirm they understand what has been explained to them. Proficiency means a worker can demonstrate a sustainable ability to perform a set of actions and understands why they need to be performed.
- There must be an **expansion of training** coupled with certification of joint committees. In order to be able to address the many issues found in our workplaces, training in specific areas such as **occupational diseases** and understanding **industrial hygiene** reports, must become mandatory. Once this training has been provided a mechanism to certify committees is needed so internal and external parties have a level of confidence in the ability of committees to perform in a consistent, effective and responsible manner.
- There must be a clear mandate for **joint training**. Acknowledged as the best method of creating effective committees, joint training of both the employer reps and the worker reps will keep all participants on an equal footing relating to their responsibilities. Where joint training exists in co-operative workplaces, there are no problems created by knowledge imbalance and a high levels of trust exists.
- The number of days of training for committee members needs to be increased. In order to be better able to perform the duties that are required of them, more education is needed. The amount of mandatory training for joint committees should increase from 2 days to 5 days.

- The MFL demands **mandatory inquests** into any fatality in a workplace. When workers have been killed on the job, many conditions resemble other situations faced by workers in like industries or competitors. Conditions that have led to a death will be corrected across the industry sector and other tragedies will be prevented. This will be the largest deterrent for employers as they will be under scrutiny in a court over their careless attitudes towards health and safety.
- There is a need to clarify **director liability for negligence** even after bankruptcy or lack of prosecution. Employers must be held responsible and not escape justice when they have taken the life of a worker in their employ.
- We need an **increase in fines** for prosecutions. Manitoba is still ranked amongst the lowest in the country for fines against those who have been convicted. Higher fines are a strong incentive for workplaces that disregard their responsibilities under the law.
- An amendment is needed for **mandatory reporting** of all workplace injuries and accidents. A true picture of occupational injuries and illnesses can be achieved through mandatory reporting such as contained in Regulation 228/94 section 13. This was a recommendation of the 2001 Review Committee to improve reporting of occupational illnesses.
- There are no **mandatory rest periods** for those on extended work shifts who are required to work double shifts. Body stress, workloads and length of workday arising from both changes to make workplaces more competitive and staff shortages that extend workdays beyond 8 hour shifts have become a greater hazard in recent years. People on 10 hour shifts would work a 20 hour day and then be obligated to return for their next 10 hour shift. Studies have shown that fatigue is a significant factor of workplace injury, therefore provision must be made to assist the body's capacity to recover.
- **Minimum staff levels** directly connected to case loads and physical demands of tasks are needed. This change has been identified by workers in health care as the number one protection from physical injury. Many tasks require two people to lift the person safely for both the patient and the worker. Also, protection is needed for those working alone between midnight and 6:00 A.M. where violence is prevalent.

Conclusion

All of the amendments made by Bill 27 have proven to be effective in reducing injuries by focusing on prevention methods and making improvements in the safety of the workplaces. We now have had 5 years to work with those changes and for most committees they were easily implemented. Some of the problems that occurred prior to the public review have disappeared and any minor cost has been more than offset by savings in injury reduction.

We wish to complement the Government, Workplace Safety and Health Division and the Workers Compensation Board of Manitoba who have worked together and created a culture of prevention that has protected many of Manitoba's workers. It is time now to complete the process and introduce the final amendments to propel the injury rate to as close to zero as possible.