



## Introduction to rights, duties and the “players” in safety and health in Manitoba

Like most Canadian health and safety laws, Manitoba’s *Workplace Safety and Health Act* includes the principle of workers’ rights - ideas designed to protect their health and safety. These rights are there because employers have duties - things they must do.

This tool starts with a list of workers’ rights - to a healthy and safe workplace, to know, to participate, to refuse dangerous (unhealthy or unsafe) work, and to no discrimination for health and safety activities or using the other rights. The rights are not named specifically in the law; they are the result of employer responsibilities. For each right, we list employer duties and the section of the *Act* where they are found.

The next section is about the “players”. Who are they? What are they supposed to do? The list is a general one only. The third section provides more details about the main players’ responsibilities. Specifics for the committee/representative are in another tool - *Responsibilities of workplace safety and health committees and representatives in Manitoba* (L.3).





## 1. Worker rights, employer duties

<i>Worker right</i>	<i>Employer duty</i>	<i>... says this part of the law</i>
A healthy and safe workplace	Obey the law, in the context of the objects and purposes of the <i>Act</i> which talk about prevention.	<i>Act</i> , section 4(1)(b)
	Take care of all his or her workers' safety, health and welfare at work, in the context of the objects and purposes of the <i>Act</i> which talk about prevention (as far as reasonably practicable) ("Welfare" refers to things such as washrooms, washing up facilities, rest areas, etc.) Also is part of the right to refuse.	<i>Act</i> , section 4(1)(a)
	Run the workplace so that people not employed there are not exposed to health or safety hazards related to what goes on there (as far as reasonably practicable).	<i>Act</i> , section 4(2)(d)
	Provide and maintain a workplace, necessary equipment, systems and tools so they are not hazardous (as far as reasonably practicable).	<i>Act</i> , section 4(2)(a)
	When an employer, or someone representing them (e.g. a supervisor), knows - or ought to know - that something in the workplace is or could be dangerous to a worker's safety or health, s/he shall not make or let any worker do that task until the dangerous condition is fixed. Part of the law about the right to refuse.	<i>Act</i> , section 43.3(1)
	Provide all workers with <ul style="list-style-type: none"> <li>• information,</li> <li>• instruction,</li> <li>• training,</li> <li>• supervision, and</li> <li>• facilities</li> </ul> to prevent them from getting sick, hurt or dying because of work (as far as reasonably practicable). Also part of the right to know.	<i>Act</i> , section 4(2)(b)

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<i>Worker right</i>	<i>Employer duty</i>	<i>... says this part of the law</i>
A healthy and safe workplace (cont'd)	Have a written workplace safety and health program for each workplace where there are 20 or more regular employees.	<i>Act, section 7.4(1)</i>
	After getting a written recommendation from a committee or representative about possible safety or health problems, within 30 days provide a written answer that: <ul style="list-style-type: none"> <li>• has a timetable to implement the recommendations s/he accepts, and</li> <li>• gives reasons why s/he disagrees with any recommendation unless the employer implements all the recommendations before then. Also part of the right to participate.</li> </ul>	<i>Act, section 41.1(2)</i>
	If employees are working on a construction site with a prime contractor, give the prime contractor the name of the person supervising those workers on the project.	<i>Act, section 4(2)(i)</i>
	Co-operate with anyone else who has responsibilities under this law (e.g. SHOs, unions).	<i>Act, section 4(2)(g)</i>
To know	Make the health and safety programme available to these people, if they ask for it: <ul style="list-style-type: none"> <li>• the committee or rep,</li> <li>• anyone working there, or</li> <li>• a safety and health officer.</li> </ul>	<i>Act, section 7.4(7)</i>
	Make sure that all workers, and especially supervisors, know about any hazards workers may face on the job.	<i>Act, section 4(2)(c)</i>
	Ensure that all workers are supervised by someone who: <ul style="list-style-type: none"> <li>• is competent (in terms of knowledge, training or experience) to make sure that work is done safely, and</li> <li>• knows the Act and regulations that apply to the work being done.</li> </ul>	<i>Act, section 4(2)(h)</i>

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<i>Worker right</i>	<i>Employer duty</i>	<i>... says this part of the law</i>
To know (cont'd)	Provide all workers with <ul style="list-style-type: none"> <li>• information,</li> <li>• instruction,</li> <li>• training,</li> <li>• supervision, and</li> <li>• facilities</li> </ul> to prevent them from getting sick, hurt or dying because of work (as far as reasonably practicable). Also part of the right to a healthy and safe workplace.	Act, section 4(2)(b)
	Provide information, instruction and training to workers to ensure, (as far as reasonably practicable) their health and safety before they: <ul style="list-style-type: none"> <li>• start any kind of work,</li> <li>• do work for which s/he was not trained, or</li> <li>• are moved to another area of the workplace or a different workplace with different facilities, procedures or hazards.</li> </ul>	Act, section 4(4)
	Make sure that workers know how to use equipment or devices that are supposed to prevent or reduce exposure to hazards.	Act, section 4(2)(c)
	When hollow-bore or intravenous needles are used in a medical workplace, make sure that: <ul style="list-style-type: none"> <li>• workers use only safety-engineered needles (as far as reasonably practicable) and</li> <li>• safe work procedures and practices for the use of those safety-engineered needles are implemented.</li> </ul> Also part of the right to a healthy and safe workplace.	Act, section 45.1(1),(2)
	When someone uses the right to refuse, shall not request or assign another worker to do the task, unless the other worker is told about the refusal and the reasons for it by the worker who refused, or by a SHO. Also part of the right to refuse.	Act, section 43(6)

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<i>Worker right</i>	<i>Employer duty</i>	<i>... says this part of the law</i>
To know (cont'd)	<p>If a committee or representative asks, the employer or prime contractor shall give them:</p> <ul style="list-style-type: none"> <li>• information about tests of any equipment, devices or chemical or biological substances used in the workplace,</li> <li>• an health and safety inspection or investigation report for the workplace, and</li> <li>• a report about safety and health monitoring or audits in the workplace.</li> </ul> <p>Also part of the right to participate.</p>	<i>Act, section 41.2</i>
	<p>Let each member of the committee, a representative, or people they name, take paid educational leave each year</p> <ul style="list-style-type: none"> <li>• for the number of hours the worker usually works in two normal working days,</li> <li>• to attend safety and health seminars, programs or courses offered by the Division, approved by the Committee, or agreed to in the current union contract.</li> </ul> <p>Also part of the right to participate.</p>	<i>Act, section 44(1)</i>
To participate, through a joint committee or rep	<p>Set up a workplace safety and health committee:</p> <ul style="list-style-type: none"> <li>• for each workplace with at least 20 regularly employees, and</li> <li>• for any other workplace or class of workplace that the WSHD Director names.</li> </ul>	<i>Act, section 40(1)</i>
	<p>Organise the selection of a worker not associated with management as the worker safety and health representative (rep)</p> <ul style="list-style-type: none"> <li>• at a workplace (except for a construction project) where a committee is not required, but where at least 10 people work regularly,</li> <li>• at a construction project, and</li> <li>• at any other workplace or classes of workplaces that the Minister names.</li> </ul>	<i>Act, section 41(1)</i>
	<p>Consult and co-operate with the joint health and safety committee or representative, about all the things they are supposed to do.</p>	<i>Act, section 4(2)(e), (f)</i>
	<p>Design the programme in consultation with the joint committee or the representative.</p>	<i>Act, section 7.4(6)</i>

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<i>Worker right</i>	<i>Employer duty</i>	<i>... says this part of the law</i>
To participate, through a joint committee or rep (cont'd)	After getting a written recommendation from a committee or representative about possible safety or health problems, within 30 days provide a written answer that: <ul style="list-style-type: none"> <li>• has a timetable to implement the recommendations s/he accepts, and</li> <li>• gives reasons why s/he disagrees with any recommendation</li> </ul> unless the employer implements all the recommendations before then.	<i>Act, section 41.1(2)</i>
	If a committee or representative asks, the employer or prime contractor shall give them: <ul style="list-style-type: none"> <li>• information about tests of any equipment, devices or chemical or biological substances used in the workplace,</li> <li>• an health and safety inspection or investigation report for the workplace, and</li> <li>• a report about safety and health monitoring or audits in the workplace.</li> </ul> Also part of the right to know.	<i>Act, section 41.2</i>
	Let each member of the committee, a representative, or people they name, take paid educational leave each year <ul style="list-style-type: none"> <li>• for the number of hours the worker usually works in two normal working days,</li> <li>• to attend safety and health seminars, programs or courses offered by the Division, approved by the Committee, or agreed to in the current union contract.</li> </ul> Also part of the right to know.	<i>Act, section 44(1)</i>
	If a SHO/inspector requests it, let someone go with him or her for an inspection or investigation, and pay that person (usually a committee member or rep).	<i>Act, section 41.3(2)</i>
	Pay committee members/ reps for time spent carrying out legal duties.	<i>Act, section 40(11)</i>
	Make sure that the names of the committee members or representatives are posted conspicuously in the workplace.	<i>Act, section 40(9)</i>

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<i>Worker right</i>	<i>Employer duty</i>	<i>... says this part of the law</i>
To refuse	Take care of all his or her workers' safety, health and welfare at work, in the context of the objects and purposes of the <i>Act</i> which talk about prevention (as far as reasonably practicable). ("Welfare" refers to things such as washrooms, washing up facilities, rest areas, etc.) Also part of the right to a safe and healthy workplace.	<i>Act</i> , section 4(1)(a)
	When a worker uses the right to refuse, shall not request or assign another worker to do the task, unless the other worker is told about the refusal and the reasons for it by the worker who refused, or by a SHO.	<i>Act</i> , section 43(6)
No discrimination for health and safety activities or issues	No employer (or union or someone acting on behalf of either) shall take or threaten discriminatory action against a worker for a variety of things related to health and safety and using their health and safety rights. This includes taking reasonable action to protect someone else (e.g. the right to refuse).	<i>Act</i> , section 42(1)

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## 2. The players, in detail

### 2.1 The main “players”

Player	Who are they?	What are they supposed to do?
Employers	The “employer” is the person ultimately responsible for hiring people. Can be in a company or non-profit organisation, union or contractor, the provincial government or its agencies.	<p>Employers must look after their workers’ health, safety and welfare, so far as “reasonably practicable” (section 4(1), the <i>Act</i>).</p> <p>Employers also must:</p> <ul style="list-style-type: none"> <li>• maintain the workplace, tools and equipment to avoid/prevent hazards;</li> <li>• fix hazards; and</li> <li>• provide information, training and competent supervisors for all employees.</li> </ul> <p>There are particular “rules” for construction sites.</p>
Supervisors	People in charge of a workplace or who have authority over a worker. They also are employees, unless they are the employer (e.g. in a small workplace).	<p>Supervisors are caught between employers and other workers. That means they respond to workers’ questions or reports about health and safety. They also carry out the employer’s decisions about how to fix hazards, train workers, provide information, etc.</p> <p>Section 4.1 was added to the <i>Act</i> in 2002. It says supervisors must (as far as “reasonably practicable”):</p> <ul style="list-style-type: none"> <li>• do everything necessary to protect the health and safety of those they supervise; and</li> <li>• make sure those workers do their job according to the law.</li> </ul> <p>Supervisors also must tell those they supervise about all the health and safety hazards that they know are, or reasonably expect to find, in the work area.</p>

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Player	Who are they?	What are they supposed to do?
Workers	<p>Workers are employees. It doesn't matter where they work (except for workplaces covered by the federal law). A self-employed person who is hired for a job. Also anyone who is being trained, or serving an apprenticeship, wherever that's done.</p>	<p>Workers have the least responsibility for health and safety at work. Their main duty is to report hazards. It's because they must:</p> <ul style="list-style-type: none"> <li>• take “reasonable care” to protect their own safety and health, and that of others who may be affected by what they do or don't do; and</li> <li>• when the job requires it, use devices or wear protective equipment provided by the employer or otherwise required by law (Part 6 of the <i>Workplace Safety and Health Regulation</i> says the employer must do certain things before requiring and providing protective equipment)</li> </ul>
Workplace safety & health committee/ representative	<p>This is are the legal name for joint employer-worker/union committees set up to deal with health and safety issues at work. Other names used include:</p> <ul style="list-style-type: none"> <li>• joint health and safety committee,</li> <li>• joint occupational safety and health (JOSH) committee,</li> <li>• safety committee, and</li> <li>• workplace health and safety advisory committee.</li> </ul> <p>Committees are required in workplaces with 20 or more regular workers. There usually is only one committee per workplace. [See the <i>Act</i>, sections 40(2), 40(3), 40(5) and 40(6) for exceptions.]</p> <p><u>Committees</u> have between four and 12 representatives. At least half of them must represent workers. In unionized workplaces, the union chooses its representatives. If there's no union, there must be a democratic election. Management appoints its representatives however it chooses, but cannot interfere with the selection of workers for the committee. Each “side” chooses a co-chairperson. [See <i>Act</i> sec. 40(8).] <u>Representatives</u> (reps) are workers who are not involved with management. They are required in workplaces with 10 - 19 regular employees, or when the Minister of Labour requires them. Reps are appointed according to the union's constitution or elected by the workers involved, in nonunion workplaces. Reps work with an employer representative.</p>	<p>Committees and representatives have the same duties. They include:</p> <ul style="list-style-type: none"> <li>• receive and deal with workers' health and safety questions and complaints;</li> <li>• inspect the workplace regularly;</li> <li>• participate in identifying workplace hazards and investigations of workplace incidents or near-misses;</li> <li>• develop and promote: <ul style="list-style-type: none"> <li>- ways to protect safety, health and welfare, and evaluate how well the solutions work; and</li> <li>- health and safety education and information programmes;</li> </ul> </li> <li>• make recommendations to the employer or prime contractor about workers' health and safety;</li> <li>• co-operate with a workplace health and safety department or company official (“occupational health service”); and</li> <li>• keep records about what they do.</li> </ul> <p>There are more details in other parts of the <i>Act</i> or regulations. For example, the employer must consult the committee or representative about any “safe work procedure” developed under the <i>Workplace Safety and Health Regulation</i>.</p> <p>Also see L.3 <i>Responsibilities of workplace safety and health committees in Manitoba</i>.</p>

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Player	Who are they?	What are they supposed to do?
Unions	Unions are the collective voice of workers in a workplace. To be a player, they must be recognized as the bargaining agent for those workers.	<p>Unions play an important role in health and safety for they must choose:</p> <ul style="list-style-type: none"> <li>• worker representatives for the workplace safety and health committee,</li> <li>• workplace safety and health representatives (reps); and</li> <li>• worker representatives to go with safety and health officers/inspectors for inspections or investigations, when there's no committee or representative.</li> </ul> <p>Given that, they may expect people they choose to report to the union executive and/or members about what they're doing and to relay complaints and questions from members.</p>
Safety and health officers (inspectors)	In Manitoba, the Workplace Safety and Health Division (WSHD) or “the Division” looks after health and safety issues. They are part of the provincial Department of Labour and Immigration. Their inspectors are called safety and health officers or SHOs. The person in charge of the Division is the Director (sometimes called the Assistant Deputy Minister).	<p>The WSHD inspectors have few duties - things they must do - in relation to other players. But they do have a lot of “powers” - things they may do. They may go into workplaces without a warrant (unless it's a residence), test equipment, look at documents and stop people doing a job or close an entire workplace.</p> <p>Inspectors are the police officers of health and safety law. They are the only ones (aside from the courts) who can enforce the law - make people obey it. Inspectors use “orders” to enforce the law. These documents, called “improvement orders”, say what part of the law has been broken and directs the party responsible to “fix” the situation. The inspector can also issue improvement orders with “stop work warnings” and stop work orders (Sections 26 to 36 of the <i>Act</i>).</p> <p>If their improvement orders are not obeyed, inspectors also may go to the deputy minister of their department with that evidence. The deputy may assess an administrative penalty of up to \$5000 (section 53.1 and the <i>Administrative Penalties Regulation</i>).</p> <p>Anyone affected by an inspector's order or decision may appeal to the Director. Appeals of the Director's decision(s) go to the Manitoba Labour Board.</p>

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## 2.2 Other “players”

Who are they?	What must they do?	Where does it say this
Self-employed people	<ul style="list-style-type: none"> <li>• operate their business to make sure that they or others are not exposed to safety or health hazards, as far as “reasonably practicable”</li> <li>• on a construction project, tell the prime contractor when they’re working there</li> <li>• obey the law</li> <li>• co-operate with anyone carrying out their legal health and safety responsibilities</li> </ul>	<i>Act, section 6</i>
Owners (of land or buildings used for workplaces; for definition, see Section 1 in the <i>Act</i> )	<ul style="list-style-type: none"> <li>• make sure that they provide and maintain land or buildings which they control, and is used for a workplace, so that there aren’t health and safety hazards for anyone, as far as “reasonably practicable”</li> <li>• obey the law</li> <li>• co-operate with anyone carrying out their legal health and safety responsibilities</li> </ul>	<i>Act, section 7.2</i>
Prime contractor, contractors, owners	<ul style="list-style-type: none"> <li>• provide to every employer and self-employed person in the workplace all “required information” as far as “reasonably practicable”:                             <ul style="list-style-type: none"> <li>- that may affect the safety and health of anyone in a workplace;</li> <li>- needed to identify and deal with existing or possible hazards related to a workplace, process, procedure or biological or chemical substance used at a workplace; or</li> <li>- spelled out as required, in a regulation.</li> </ul> </li> </ul>	<i>Act, sections 7.5(1) to 7.5(4)</i>
Suppliers (who supply, sell, lease, install or provide these things for use in a workplace: tools, equipment, machines, devices, or biological or chemical substances)	<ul style="list-style-type: none"> <li>• make sure that anything they provide, as far as reasonably practicable:                             <ul style="list-style-type: none"> <li>- is not hazardous when used according to the supplier’s instructions, and</li> <li>- is consistent with what’s required in the health and safety law;</li> </ul> </li> <li>• when a regulation says so, provide required written instructions and information to every employer, self-employed person, contractor or prime contractor to whom they supply (any of the items in the list at the left);</li> <li>• obey the health and safety law.</li> </ul>	<i>Act, section 7.3</i>

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### 3. Players’ responsibilities - some more details

#### 3.1 Employers

The law says [the Act, section 4(2)] **employers must:**

- fix hazards - i.e. provide and maintain the workplace, and the tools and equipment there, to avoid safety and health hazards;
- provide information, instruction, training, supervision and “facilities” to make sure their workers’ health, safety and welfare is looked after;
- make sure that all workers, especially supervisors, know about health and safety hazards in the workplace and how to use protective equipment or devices;
- do things to prevent others (not employees) from facing health or safety hazards related to workplace activities;
- consult and co-operate with the committee or representative;
- co-operate with anyone who has responsibilities under the law (e.g. inspectors); and
- make sure that all workers are supervised by people who are competent (because of knowledge, training or experience) to make sure that job tasks are done in a safe and healthy way and who know the law as it applies to activities in the workplace.

**Section 42 of the Act** says that employers cannot discriminate against employees for a variety of activities related to health and safety, including:

- using their rights, including the right to refuse
- carrying out a duty
- taking “reasonable action” to protect another person’s health and safety
- doing their job as a committee member
- talking to a committee member or inspector
- obeying the law
- trying to have the law enforced

**Construction sites** have some particular “rules”. Where there is more than one employer or self-employed person at the same time, there has to be a **prime contractor**. Section 7(3) of the *Act* says this person must:

- make sure that everyone working on the project obeys the health and safety law (as far as reasonably practicable);
- co-ordinate, organize and oversee the performance of all work at the site;
- conduct their own activities to make sure that no one is exposed to safety or health hazards as a result of activities on the site (as far as reasonably practicable);
- co-operate with anyone doing their duty under the health and safety law; and
- obey this Act and the regulations.

Construction sites - and other workplaces - also may have **contractors**. Section 7.1 of the *Act* sets the scene by saying their responsibilities apply to situations where:

- an employer, their worker(s) or a self-employed person works under a contract with the contractor, and the employer or self-employed person has no direct and complete control of
  - a workplace, or
  - a process or procedure at the workplace.

In these situations, the contractor must make sure that the workplace, process or procedure does not create a health or safety hazard for anyone (as far as reasonably practicable).

When the construction project has a prime contractor, the contractor must give him/her the name of each employer or self-employed person whom the contractor has hired to work on the project. Like others, the contractor also must:

- co-operate with anyone doing their duty under the health and safety law; and
- obey this Act and the regulations.

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### 3.2 Supervisors

The Act, Section 4.1 was added to the law in 2002. It says supervisors must, as far as “reasonably practicable” (see definition on page C-8):

- do everything necessary to protect the health and safety of workers they supervise;
- make sure workers whom they supervise do their job according to the law; and
- make sure that people they supervise use all the protective devices and/or equipment that the employer requires or provides to protect them, or whatever is required by the law.

It also says supervisors must:

- tell any workers they supervise about all the health and safety hazards that the s/he knows are, or can reasonably expect to find, in the area where the people are working;
- co-operate with anyone else who’s carrying out their legal responsibilities for health and safety (a committee member, inspectors etc.); and
- obey the health and safety law.

### 3.3 Workers

Workers have the fewest responsibilities when it comes to health and safety at work. They must:

- take reasonable care to protect their own safety and health, and that of others who may be affected by what they do or don’t do;
- when the job requires it, always use devices or wear protective equipment provided by the employer or otherwise required by law (see the *Workplace Safety and Health Regulation - Part 6* for what the employer must do before requiring and providing protective equipment, etc.);
- consult and co-operate with the committee or rep;
- co-operate with anyone else who has legal health and safety duties; and
- obey the health and safety law.

### 3.4 Unions

Unions play an important role in health and safety for they must choose:

- worker representatives for the workplace safety and health committee;
- workplace safety and health representatives; or
- worker representatives to go with safety and health officers/inspectors for inspections or investigations, when there’s no committee or representative.

They may ask the Director of the Workplace Safety and Health Division to require employers to:

- have programs for more than one workplace, or for parts of workplaces; or
- set up a joint committee for more than one workplace or parts of workplaces.

Like employers, unions cannot discriminate against employees for a variety of activities related to health and safety, including:

- using their rights, including the right to refuse;
- taking “reasonable action” to protect another person’s health and safety;
- doing their job as a committee member;
- talking to a committee member or inspector; and
- trying to have the law enforced.

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### 3.5 Committees and representatives

Committees and representatives have the same duties. The Act, section 40(10), says that, in general, they are supposed to:

- receive, consider and deal with workers’ health and safety questions and complaints;
- participate in identifying hazards related to workplace activities affecting workers and others;
- develop and promote ways to protect the safety, health and welfare of people in the workplace, and evaluate how well the solutions work;
- co-operate with an “occupational health service” (e.g. a safety and health department or company official) in the workplace;
- co-operate with safety and health officers/ inspectors;
- develop and promote safety and health education and information programs;
- make recommendations to the employer or prime contractor about workers’ health and safety;
- inspect the workplace regularly;
- participate in investigations of workplace incidents or near-misses; and
- keep records about the questions or complaints they receive and what they do about them, as well as what else they do.

Other sections of the *Act* and regulations set out other duties and activities that committees and reps have. See L.3 (*Responsibilities of workplace safety and health committees and representatives in Manitoba*) for a more detailed explanation.

