

Interim solution for prevention and participation mechanisms

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Following the modernization of the occupational health and safety system, adopted by the National Assembly in the fall of 2021, an interim solution for prevention and worker participation mechanisms in the workplace was put in place. Those mechanisms promote workers' participation in a better management of health and safety in the various working environments.

Since April 6, 2022, establishments that do not have prevention and participation mechanisms are required to put in place the interim solution. In accordance to it, as provided by the Act respecting occupational health and safety (AROHS), employers, in collaboration with workers, must appoint **a liaison officer** and prepare **an action plan** (for establishments with fewer than 20 workers) or put in place **an occupational health and safety (OHS) committee**, appoint **an OHS representative** and put in place **a prevention program** (for establishments with 20 or more workers).

HOW TO CALCULATE THE NUMBER OF WORKERS?

Since the prevention mechanisms required by the AROHS differ from one establishment to the next depending on the number of workers, that number must be properly calculated.

Full-time and part-time workers, students, trainees, agency personnel (be it on loan or rented) as well as occasional workers, without any consideration for their assignment location, are to be included.

Every person who is part of a recall, priority or substitution list must be included, if they may be called back to work, even for one hour or a replacement.

Only the employer's OHS representatives are to be excluded from the calculation.

ESTABLISHMENT WITH FEWER THAN 20 WORKERS

LIAISON OFFICER

Unless a different agreement between the employer and workers exists, certified associations are to appoint the liaison officer among the establishment's workers.

Duties of the liaison officer:

- Cooperate with the employer to facilitate the communication of OHS information
- Lodge complaints to the Commission des normes, de l'équité, de la santé et de la sécurité du travail (CNESST) when the need arises
- Contribute to the development and implementation of an action plan
- Make written recommendations for identifying risks in the working environment

According to the AROHS, the liaison officer is not to face reprisals related to their role. That person is deemed to be at work while carrying out their duties. They can take time off, without losing salary, to participate in training programs which will be specified in the future regulations on prevention mechanisms. The regulations will determine how the registration, accommodation and travel expenses will be shouldered by the CNESST.

ACTION PLAN

The action plan's object is to eliminate, at the source, the dangers the health, safety and physical and psychological integrity of workers. It must take into account occupational health programs developed by the Ministère de la Santé et des Services sociaux and the regulations that apply to the establishment, and include the liaison officer's recommendations.

Content of the action plan:

- Identification and analysis of risks (chemical, biological, physical, ergonomic and psychosocial) that can affect workers' health and safety
- Measures and priority actions to eliminate or control the identified risks while emphasizing the prevention measures' hierarchy
- Surveillance, evaluation, maintenance and follow-up measures to ensure that the identified risks are eliminated or controlled
- Identification of the means and personal protection equipment (PPE) deemed to be the best adapted to the needs of workers
- OHS training and information programs

ESTABLISHMENT WITH 20 OR MORE WORKERS

OHS COMMITTEE

The employer, in collaboration with the workers, must form an OHS committee. It is not a negotiation body, but a social dialogue tool. Hence, decisions are made by consensus.

In absence of an agreement on some topics after a written exchange between the OHS committee members representing the employer and those representing the workers, the CNESST may be asked to settle a matter.

Duties of the committee:

- Determine OHS training and information programs
- Choose the means and personal protection equipment (PPE) that are deemed most adapted to the needs of the establishment's workers
- Take cognizance of the prevention program's other elements, contribute to its development, its updating and follow-up, and make recommendations to the employer
- Recommend to the employer, if needed, the involvement of an external facilitator in occupational health for the development of the health components of the prevention program
- Participate in the identification and analysis of the risks that can affect the health or safety of the establishment's workers, and in the identification of the contaminants and hazardous materials present in the work locations
- Hold registers of work accidents and occupational diseases and of the events that could have caused them
- Give specific mandates to OHS committee members, notably the OHS representative
- Receive a copy of accident notices, inquire into events that caused or could have caused a work accident or an occupational disease and submit appropriate recommendations to the employer and the CNESST

- Receive and take into consideration the OHS representatives' recommendations
- Receive and study the inspection reports made about the establishment
- Receive and study the statistical data or any other information provided by the CNESST or any other organization
- Accomplish any other task entrusted to it by the employer and workers or their certified association according to a collective agreement

OHS committee members

The number of members in the committee is determined as per an agreement between the employer and the workers. If the parties do not agree, this number is set by the AROHS according to the number of people working in the establishment (or establishments, if the multi-establishment approach applies, see below).

In the presence of multiple certified associations, these must agree on the number of representatives for each.

Number of representatives in the committee (according to the interim solution) :

| Number of workers in the establishment | Number of representatives | |
|--|---------------------------|-----------|
| | Workers | Employer |
| 20 to 50 | 2 | 2 or less |
| 51 to 100 | 3 | 3 or less |
| 101 to 500 | 4 | 4 or less |
| 501 to 1000 | 5 | 5 or less |
| Over 1000 | 6 | 6 or less |

Chair

The committee is chaired by two co-chairs, in rotation: one is chosen among the workers' representatives and the other is chosen among the employers' representatives.

Meetings

The frequency of meetings is determined by the OHS committee members, but they must meet at least once per quarter. The meetings must take place during regular working hours and are part of the duties of OHS committee members. The planning of the meetings is done collaboratively by the two co-chairs.

Please note: the AROHS provides that the employer and workers can, if they wish, create multiple OHS committees, subject to this agreement being submitted to the CNESST.

OHS REPRESENTATIVES

Unless agreed otherwise between the employer and workers, the OHS representatives are appointed by the certified associations. Chosen among the establishment's workers, they sit on the OHS committee and represent their peers.

The duties of OHS representatives:

- Inspect work locations
- Receive a copy of accident notices and inquire into the events that caused or could have caused an accident
- Identify situations that could be a source of danger
- Make the recommendations deemed necessary (including those about psychosocial risks) to the OHS committee or, failing that, to the workers or to their certified association and to the employer
- Assist the workers in the exercise of the rights afforded to them by the current Act and regulations
- Accompany the CNESST inspector during their visits
- Intervene in cases where a worker exercises their right of refusal

- Lodge complaints to the CNESST
- Collaborate in the development and implementation of the prevention program
- Participate in the identification and analysis of the risks that can affect the health or safety of the establishment's workers, and in the identification of the contaminants and hazardous materials present in the work locations.

The AROHS stipulates that the OHS committee members are not to face reprisals related to their role and are deemed to be at work while carrying out their duties. They can take time off, without losing salary, to participate in training programs which will be specified in the future regulations on prevention mechanisms. The regulations will determine how the registration, accommodation and travel expenses will be shouldered by the CNESST.

Time off work

The OHS committee is to determine the time off work for the representatives. However, a minimal duration is set by the AROHS.

| Number of workers | Time off per quarter |
|-------------------|---|
| 20 to 50 | 9 hours 45 minutes |
| 51 to 100 | 19 hours 30 minutes |
| 101 to 200 | 32 hours 30 minutes |
| 201 to 300 | 48 hours 45 minutes |
| 301 to 400 | 58 hours 30 minutes |
| 401 to 500 | 68 hours 15 minutes |
| Over 500 | 68 hours 15 minutes + 13 hours per 100 workers |

PREVENTION PROGRAM

The AROHS requires all employers to create a prevention program for establishments or multi-establishment groups of more than 20 workers. The object of this program is to eliminate, at the source, risks to the health, safety and physical and psychological integrity of workers. It must take into account occupational health programs developed by the Ministry and regulations that apply to the establishment, and include the OHS committee's recommendations.

Consultation of the OHS committee and of the OHS representative is mandatory. In fact, a large part of the prevention program's content must be based on the OHS committee's decisions and recommendations.

The AROHS stipulates that the employer should, in principle, submit its prevention program to the CNESST before April 6, 2023. Afterwards, an annual update is required. Every three years, the updated prevention program must be submitted to the CNESST, accompanied by the OHS committee's recommendations.

Content of the prevention program:

According to the AROHS, any prevention program for establishments of 20 workers or more must include:

- Identification and analysis of the risks (chemical, biological, physical, ergonomic and psychosocial) that can affect the health and safety of workers
- Measures and action priorities to eliminate or control the identified risks while emphasizing on the prevention measures' hierarchy
- Surveillance, evaluation, maintenance and follow-up measures determined by the OHS committee to ensure that the identified risks are eliminated or controlled

- Means and PPE determined by the committee to be best adapted to the workers' needs while complying with the regulations
- OHS training and information programs
- Pre-employment health exams and in-service health exams required under the regulations
- List of the hazardous materials used in the establishment and of the contaminants that may be generated
- Maintenance of an adequate first-aid service to respond to emergencies

MULTI-ESTABLISHMENT APPROACH

Regarding the prevention mechanisms, the AROHS provides requirements per establishment. It also allows a multi-establishment approach, which is the grouping of multiple locations that then take advantage of the same prevention mechanisms. That translates in the creation of a single OHS committee, the nomination of representatives for all establishments and the creation of a single prevention program.

Conditions allowing for a multi-establishment approach

Several conditions must be met to be able to create only one OHS committee and to create only one prevention program for multiple establishments:

- The OHS committee members can adequately carry out their duties, for each of the establishments, considering among other things the travelling distance between the establishments.
- All the establishments have 20 workers or more.
- The establishments targeted by the grouping conduct activities of the same nature, i.e., similar or related activities carried out with comparable duties and in similar working conditions.

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