



A Guide for Employers

Health and Safety Workplace Inspections

November 2018



PENINSULA



About Peninsula

Peninsula is an employer resource for HR, workplace health and safety, and employment advice, offering guidance to small and medium-sized businesses. For more than three decades, we have supported over 50,000 businesses worldwide and across all industries.

All of our clients have immediate access to unlimited 24/7 employment advice, occupational health and safety support, legal expense insurance, on-site HR audits, a suite of employer documents and templates, online employee management tools and legislative updates, all of which are custom-tailored to their particular business. Simply put, Peninsula is the alternative solution to having your own in-house human resources team. We're here to help, however and whenever you need us.

For more information, visit www.peninsulagrouplimited.com/ca.



Who is this guide for?

This is the essential health and safety guide for small business owners.

If you are a small business owner or employer, this guide is for you.

This guide contains essential information regarding an employer's duties under provincial health and safety laws. It also provides answers to frequently asked questions concerning this topic.

You may use this guide as a reference point for:

- Health and safety standards
- Employer need-to-knows
- HR best practices
- Employment-related facts
- Legislative updates

If you have any questions regarding this guide or about how health and safety laws affect your business, please contact Peninsula to speak with our expert health and safety advisors. Our dedicated advice line is a complimentary service that's available 24/7 at **1(833) 247-3652**.

General Disclaimer: Peninsula is an employer resource for HR and employment advice. Employers are advised that this guide is for informational purposes only. Peninsula is not licensed to practice law in Ontario. The content in this guide is not intended to replace licensed services and the information is not intended to be legal advice.



Health and Safety Inspections

This employer guide explores the basics of health and safety workplace inspections under the Ontario Occupational Health and Safety Act (OHSA). As a small business owner, use this resource to avoid common pitfalls.

Occupational health and safety inspectors strive to enforce regulations outlined in the OHSA and ensure business owners are working to maintain an Internal Responsibility System (IRS). The IRS refers to a culture of accountability within an organization, where employees are proactive about their own safety and the safety of others. Inspectors are appointed by the Ministry of Labour and they undergo extensive training in order to accurately assess health and safety practices.

This guide is a useful resource to help you understand inspection details, powers and abilities inspectors have, and how they will impact your business.



Ministry of Labour Inspectors

Understand what inspectors can ask for.



Under the Occupational Health and Safety Act (OHSA), an inspector has the ability to do the following:

- Enter a workplace without giving prior notice or possessing a warrant. However, if your workplace is located in your place of residence, consent from the resident or a warrant is required.
- Use machines, devices, materials, etc. present in your workplace. Inspectors can also conduct any tests on/use any item in the workplace and take necessary samples. All tests will be conducted at the employer's expense (expenses include hiring professionals to perform tests and produce reports).
- Require reports from professionals which contain the following information: the capacity limit of buildings or areas in the workplace, whether the building is capable of supporting existing and future loads specified in the capacity limit, etc.
- Inspect and make copies of any drawings, specifications, documents, reports, etc. During the process of making copies, the inspector will issue a receipt for all materials removed from the premises. After copies are made, they will return the original documents.
- Take photos of the workplace.
- Require that a workplace (or part of it) be cleared to perform a test or inspection.
- Speak to anyone in the workplace privately or among the presence of individuals that are relevant to the examination.
- Require that machinery/equipment not be used until testing is complete.
- Direct a Joint Health and Safety Committee (JHSC) member or health and safety representative to inspect the workplace periodically.



Onsite Inspections

Do you know your role, as the employer, in the inspection process?

Do you have questions about the inspection process? Take a look at the steps an inspector will use to assess your business:

1. Arrival

Inspectors are not required to give notice before arriving at your workplace. When they arrive, they will introduce themselves and ask to speak to management. It is likely they will also ask for a health and safety Representative or member of the Joint Health and Safety Committee to be present as well. If the required parties are not present, the inspector will conduct a short inspection, and follow up when they are present.

2. Documentation Check

After all required parties are present, the inspector will request to view the following OHS documents:

- Occupational health and safety policy;
- Workplace violence and harassment policy; and
- Health and safety awareness poster.

They may also ask to see the locations where these documents are posted. This includes viewing the location where the OHS is posted.

3. Workplace Inspection

At this time, the inspector will examine the workplace to see if it is a safe environment for employees.

Additionally, the inspector will ensure all parties are following appropriate safety procedures and review the OHS to confirm all requirements are being met. If necessary, inspectors will issue orders that could negatively impact your business operations.

Your Role as an Employer

Here are some important things to keep in mind during an inspection:

- Ask for identification if it is not presented;
- Everything you say to the inspector is important and will be considered;
- Designate a member of the JHSC/health and safety representative to participate in the inspection;
- Ensure employees cooperate with the inspection and answer questions accurately based on their own knowledge; and
- Never under any circumstances obstruct an investigation.



Inspectors' Orders

...and what this means for your business.

Types of Orders

It's important to understand the differences between orders issued by inspectors. Compliance orders can have the following time frames:

- **Time based** – you must comply with the order within a specified time frame.
- **Time unknown** – the inspector does not specify a date by which you need to comply. This will result in a stop order.
- **Forthwith** – the issue was addressed during the inspector's visit.

Stop Work Orders

Workers have the right to be aware of any actual or potential hazards in the workplace. This order requires that whatever contradicts the OHSA must not be operated until the stop work order is withdrawn by the inspector. This could mean not using certain equipment, entering a location, or stopping a process.

When can work be resumed?

Workers have the right to be included and consulted in matters concerning health and safety. This includes being involved in the process of identifying and resolving health and safety concerns.

Work can only resume without further inspection if:

1. An employer has given notice to an inspector that they have complied with the order. To fulfil this requirement, the employer must give the Ministry of Labour written notice within three (3) days of compliance.
2. A Joint Health and Safety Committee member or health and safety representative also state they believe the company has complied. This requirement is met by signing the employer's written notice to the Ministry. However, the JHSC member (or health and safety representative, if applicable) has the right to decline to sign the notice of compliance if they see fit.

The written notice of compliance must be posted in a clearly visible area in the workplace and has to remain posted for 14 days following compliance with the order.



Inspectors' Orders

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Other Types of Orders

Inspectors can also issue other orders that impact your business, such as:

- **Order for inspections** – an inspector can instruct a member of JHSC or health and safety representative to conduct inspections at regular intervals.
- **Order for workplace harassment investigation** – an inspector can order that a workplace harassment investigation be conducted at an employer's expense.
- **Order for written policies** – an inspector can order that workplace violence and workplace harassment policies be written and displayed in a visible area in some cases where there are under five regularly employed workers.

Appealing Orders

Under the Occupational Health and Safety Act, anyone negatively impacted by an inspector's decision or order can submit an appeal to the Ontario Labour Relations Board (OLRB). This has to be done within thirty days of the inspector issuing the order. The written notice of compliance must be posted in a clearly visible area in the workplace and has to remain posted for 14 days following compliance with the order.

Ontario Labour Relations Board

The OLRB is independent tribunal that makes evidence-based decisions in a variety of employment related disputes. The objective of the board is to promote a fair and safe work environment in Ontario. The board will enforce legislature based on concerns that fall under the scope of:

- The Labour Relations Act;
- The Occupational Health and Safety Act; and
- The Employment Standards Act.

I submitted an appeal, now what?

The Ontario Labour Relations Board will address your concern and make a new decision based on the evidence presented by both sides. The board has the same powers as an inspector, which means it has the ability to enforce the original order, rescind it, or issue a new one.



Offenses and Penalties

Understand what non-compliance will cost your business.

Obstructing an Investigation

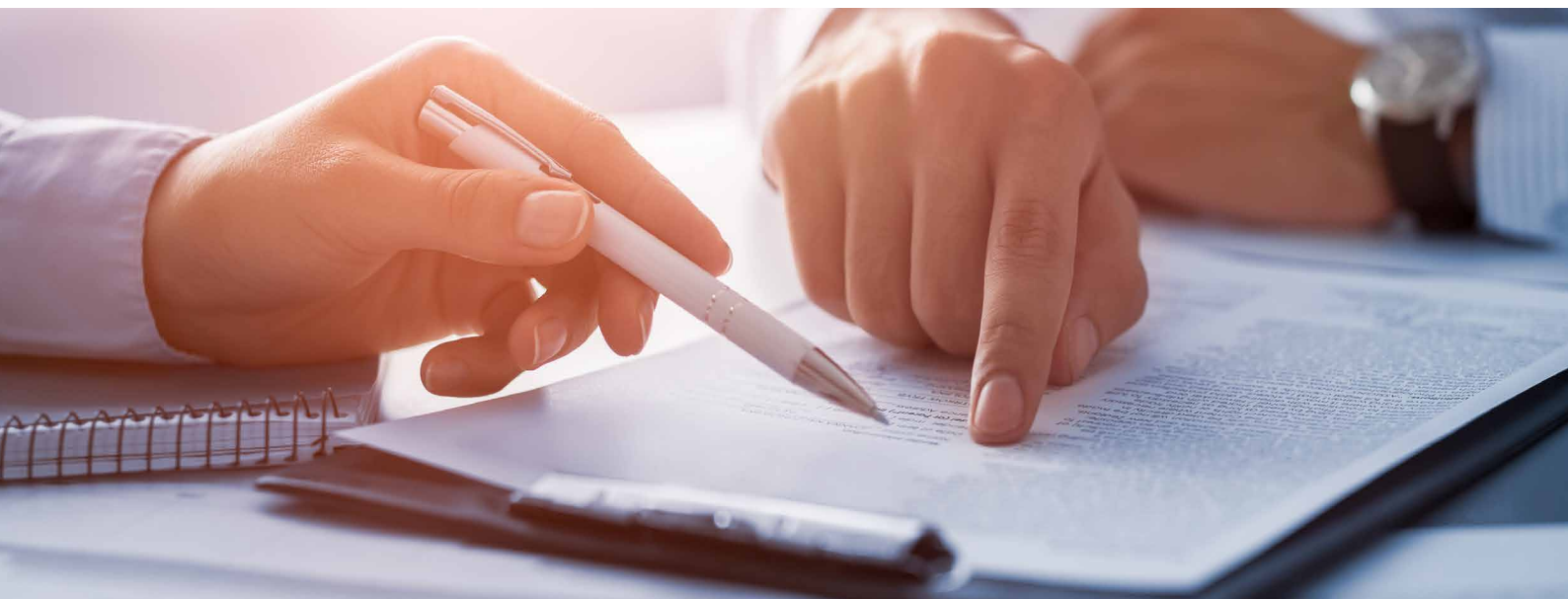
The Occupational Health and Safety Act clearly states that it is an offense to interfere with an inspection. Employers and employees are expected to actively assist an inspector by providing truthful information and being forthcoming with requested information.

Failing to Comply with an Order

If an order is issued by an inspector, director, or minister and the organization does not comply, they will be prosecuted.

Penalties

The Ministry of Labour will prosecute anyone (employers, supervisors, and workers) that either obstructs an investigation or fails to comply with an order. If convicted, the penalty for an individual defendant could consist of fines (up to \$100,000 per charge) and/or jail time (up to 12 months). If convicted, **the maximum penalty a corporation could face is \$1,500,000.**





Summary

Health and Safety Workplace Inspections

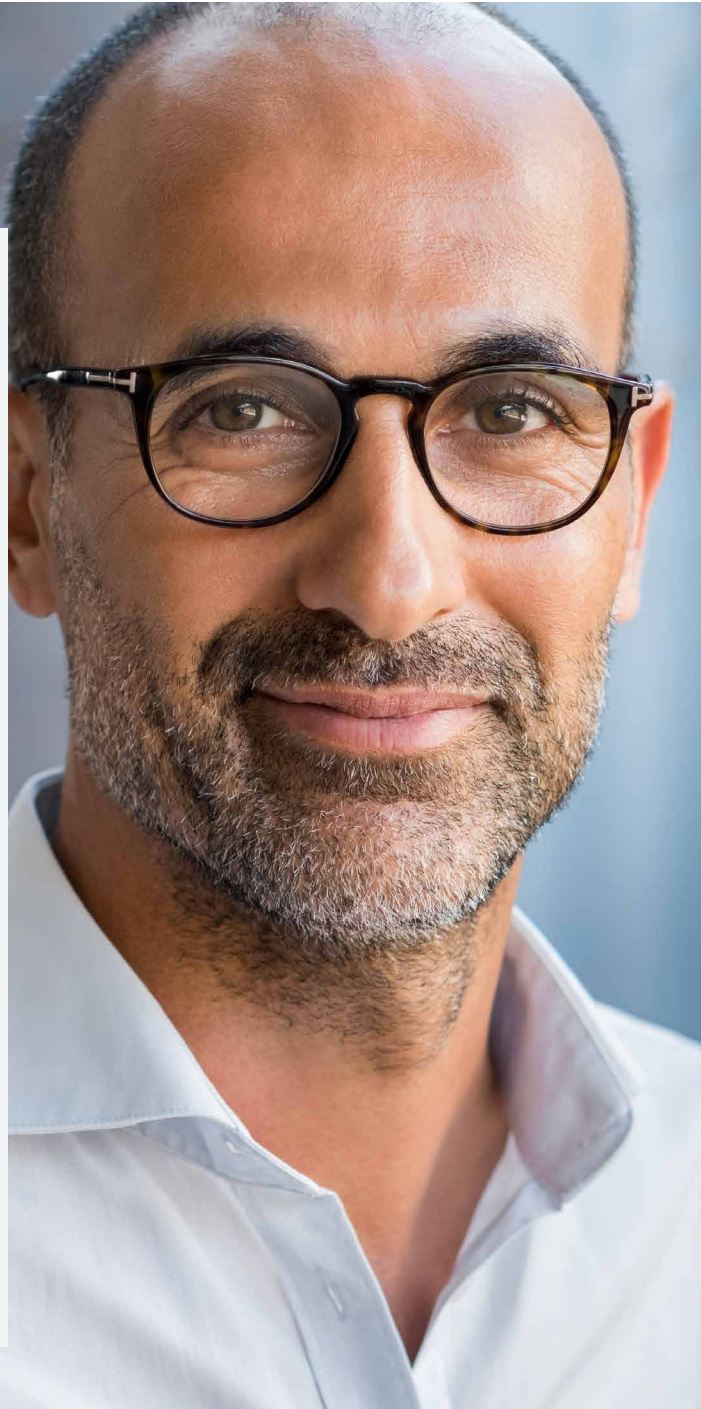
As an employer, it is important to understand your role in workplace inspections. It is your responsibility to cooperate with the inspector and comply with any orders issued. If you need to appeal an order, it is your duty to contact the Ontario Labour Relations Board. It is important to remember that the purpose of inspections is to ensure that your business is a safe work environment for employees. Also, inspectors also assess if you are doing your best to create a culture of accountability throughout the company, where employees feel responsible for their own safety and the safety of others.

Learn More

If you have questions about the Occupational Health and Safety Act, contact Peninsula. We are dedicated to providing small business owners with HR support. Call us today.

1(833)-247-3652

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