

Alberta Federation of Labour

Discussion Paper Response Joint Worksite Health and Safety Committee Regulations

May 2000

We are pleased to have the opportunity to make a submission on the regulatory framework for Joint Worksite Health and Safety Committees (JWHSC). A review of this framework is long overdue.

We recognize that the discussion paper only addresses the broader issues around JWHSCs and asks stakeholders for input about what form of regulations should exist. We expect that once a decision is made on what regulatory framework will exist, the department will establish a new process (task force and/or discussion paper) to consult Albertans about the specific provisions that should be in a JWHSC regulation.

Due to this understanding, we will restrict our comments solely to the broader questions posed in the discussion paper, and will hold our comments on specific sections and amendments to the Act and to the regulation to a later opportunity.

Are JWHSC Regulations Necessary?

Are JWHSCs Essential to Reducing Accidents?

We believe that JWHSCs are both essential and necessary to the health and safety system in Alberta.

JWHSCs are about process. They are formed to provide an avenue for concerns, complaints and issues to be addressed. They also provide a structure for decision-making.

JWHSCs are also about communication. They are the medium to keep employer and worker talking about safety issues and in which they can find common ground.

Both of these roles are fundamental to achieving a positive and effective health and safety environment at a workplace.

We view JWHSCs in a similar manner as our society views democracy. It is hardly perfect. It can at times be cumbersome. It often doesn't work as well as it should. But we can come up with no better method for getting results.

We say this because we know that the existence of a JWHSC will not alone solve all of a workplace's health and safety problems. Some JWHSCs work more effectively than others. Many problems can still exist, even if a JWHSC exists.

But a JWHSC is primary underpinning of establishing the conditions that will allow for solutions to appear.

Workers have three fundamental rights in health and safety. They have the right to know, the right to participate and the right to refuse. The acknowledgement of these rights through the OH&S Act and regulations communicates that health and safety is not the exclusive domain of the employer. The worker has a stake in what happens at the worksite.

JWHSCs are an extension of this recognition. If the worker has a legitimate right to know and to participate, then there needs to be a structure bringing that right to life. The JWHSC is the most effective tool we know to breathing life into those rights.

The Canadian Centre for Occupational Health and Safety (CCOHS) recently completed an exhaustive study into attitudes toward workplace safety. It found that joint participation and empowerment were crucial determinants for the success of a health and safety program. Part of the conclusion of the study is quoted below:

"The most successful initiatives regarding safe attitudes and behaviour are the ones based on empowerment; they are the ones which put workers' experience and expertise to maximum advantage while making workers active stakeholders in the overall workplace health and safety effort; & Such initiatives would maximize their results if they were done jointly; workplaces should be encouraged to organize workplace health and safety programs and activities that both parties, i.e. workers and management, deeply believe in, that they can wholeheartedly buy into" (Influencing Attitudes Toward Workplace Illnesses and Injuries, 1998, CCOHS, page 39)

The CCOHS study brings home the point that if you want a safe workplace, make your workers an equal partner in the project. JWHSCs are a tool for building that partnership. We advocate regulating the tool of JWHSCs, just as the other safety tools are regulated. Hazard assessments, codes of practice, WHMIS criteria, competency certificates are all tools, as are many other elements of the Act and regulations. We do not shy away from constructing frameworks for these tools and requiring employers to follow them. Neither should we shy away from constructing a framework for JWHSCs and requiring employers to follow it.

JWHSCs are proven effective tools for making workplaces safer. In that regard, they are both necessary and essential and should be included in regulations.

Should JWHSCs Be Legislated?

Given our comments above, we believe that JWHSCs should be legislated and made a mandatory structure in the OH&S Act. All worksites should be required to form and operate a JWHSC.

herefore we advocate amending section 25 to remove the Minister's discretion and make JWHSCs mandatory at all worksites. We believe that a JWHSC at any worksite with over 10 employees would not be an unreasonable burden, and would set the minimum number accordingly.

For worksites under 10, we recognize that a formalized JWHSC may be unduly cumbersome. We recommend an additional section establishing a more informal "Employee-Employer Committee" to address health and safety issues. Another option would be to require a worker representative be appointed with some rights and duties associated with the role.

We are willing to provide more detailed comment on what should be in the Act regarding these two requirements.

Should Structure and Operating Rules Be In Regulation?

In general terms we believe the legislative requirements for JWHSCs should be broken down in the following manner:

The Act would include:

- Mandatory Establishment of JWHSC
- Membership of JWHSC, including number of committee members, proportions of worker representatives, how worker and employer representatives are to be selected
- Duties and rights of the JWHSC
- Duty of Employer to respond to JWHSC recommendations
 - Process for complaints or concerns regarding fulfillment of employer/ JWHSC duties
 - Creation of committee or representative for worksites under 10 employees
 - The regulation would include requirements regarding the operation of the JWHSC, including:
 - Meeting frequency and basic structure
 - Co-chairs and their duties
 - Quorum and votes
 - How to call special meetings
 - Member training
 - Any other items arising from Act requiring more detail

Our rationale for this is rather straightforward. The Act should establish the basic structure, make-up and rights of the JWHSC. Other administrative matters should be included in the regulation.

What powers the JWHSC has, who sits on it and how they are selected, as well as the employer's duties to respond are basic, fundamental issues related to JWHSCs. These need the weight of the Act behind them to ensure they have full force and effect.

This is for two reasons. First, the legislative hierarchy places Acts as preceding regulations. They are seen as the most important items. It sends a message to workers and employers that this is an important item.

Second, the Act is a higher profile publication. It is more widely read and more widely available to people in workplaces. This is partly because people perceive regulations as dealing with specific matters, and that the Act addresses more generally applicable items.

The Act is the place to establish duties and structures and the regulation is left to fill in the details. This is already done a number of times, both in OH&S legislation and in other forms of legislation.

We believe our proposed division would create an appropriate balance between communicating the importance of this tool and leaving worksites to establish their own best practices.

Final Comments

Our only other comment relates to the current JWHSC framework. We believe the status quo is not an option. It is an unacceptable state of affairs. The real effect of the current Ministerial discretion and regulatory lists is to ensure there is no requirement for JWHSCs at all, yet allowing the Minister and others to claim there is some regulatory provision. In short, the Minister, rather than use their discretion to establish JWHSCs, has instead ignored their power, and allowed the provision to languish and wither. We believe this is contrary to the intent of the legislation.

We are, in practice, the only province that does not require some form of JWHSC. Most provinces require it in legislation. PEI will soon have legislation. Newfoundland and NWT use the Minister's discretion to make JWHSCs mandatory in workplaces where they are not established voluntarily.

Only Alberta allows employers to ignore workers in health and safety.

This is partly a political problem, but it is also a fundamental flaw in section 25 of the Act. We believe it must be amended to make JWHSCs mandatory, as per our suggestions above.

Conclusion

Thank you for the opportunity to comment upon the JWHSC regulation. We look forward to the response from the department and would be willing to participate in the next phase of the review, namely working out details of the new approach.

Respectfully Submitted,

Alberta Federation of Labour