

Legal Issues in Sun Safety for Workplaces in Nova Scotia

This fact sheet provides an overview of legal issues in sun safety for workplaces in Nova Scotia. This covers jurisdiction-specific occupational health and safety (OHS) legislation for both solar UV radiation and heat stress. The focus is on OHS legislation, workers compensation legislation has not been covered. The purpose of the fact sheet is to provide an overview of the OHS laws as they apply to sun safety at the time of writing (August 2016), the purpose is not to provide legal advice or opinion. This jurisdiction-specific information should be read with our fact sheet on *Legal Issues in Sun Safety for Canadian Workplaces* which provides an introduction to legal issues associated with implementing a sun safety program.

The Nova Scotia *Occupational Health and Safety Act* (NS OHSA), S.N.S. 1996, c. 7, has general duties for employers and employees. The joint health and safety committee has broad functions that would apply to the development of a sun safety program. The primary regulation, the *Occupational Safety General Regulations*, NS Reg 44/99, has broad duties to provide protection if there is the possibility of injury to eyes, face, neck, or skin. These may apply to exposure to the sun. There are a number of specific requirements for the provision of drinking water.

Key terms in the NS OHSA:

- employee;
- joint health and safety committee; and
- OHS officer.

The Nova Scotia OHSA has general duty clauses in sections 13 to 18 for employers, employees, self-employed persons, contractors, and constructors that cover sun hazards. There also broad duties to provide instruction and training for hazards in section 13.

If there are 5 or more employees there is a duty to have an OHS policy (s.27). If there are 20 or more employees, there is a duty to have an OHS program. The OHS committee has broad functions that would apply to the development of a sun safety program. Where there is no OHS committee, but there are 5 or more employees, there may be an OHS representative, who has broad functions similar to those of the committee. The employee must respond to committee or representative recommendations. The committee or representative must receive the results of inspection, testing, or monitoring of the workplace with regards to sun safety. An employee representative may be present to observe any such testing, etc.

An employee may refuse to do work where the employee has reasonable grounds for believing that the act is likely to endanger the employee's health or safety or the health or safety of any other person. An employee is protected against "discriminatory action" if the employee has engaged in activities such as a work refusal.

An officer has the power to issue a stop order where the use of something may be unsafe, but does not appear to apply to merely being in the presence of something that is unsafe.

Radiation and heat from the sun are “physical agents”, but physical agents must be “used” to be covered by section 58. The employer must send written notice to the regulator if there is injury from any cause in a manner likely to prove fatal, which would only apply to extreme cases of heat stress.

The primary regulation made under the NS OHSA does not contain anything specific regarding UV radiation or heat stress, other than a reference to protection from radiation from welding or “allied processes”. There are broad duties to provide protection if there is the possibility of injury to eyes, face, neck, or skin. These may apply to exposure to the sun. There are a number of specific requirements for the provision of drinking water in section 18. Occupational Safety General Regulations, made under Section 82 of the Occupational Health and Safety Act, S.N.S. 1996, c. 7.

Visit sunsafetyatwork.ca for more information. This fact sheet was correct as of August 2016. Production of this resource has been made possible through financial support from Health Canada through the Canadian Partnership Against Cancer.