

Defining Employer and Owner Under the *OHS Act*: Why Leaders Are on the Hook

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Alberta's *Occupational Health and Safety Act* (the **OHS Act**) sets out the minimum health and safety standards employers and owners must provide in Alberta, placing significant duties on them to maintain a safe workplace. Non-compliance can expose organizations and individuals to severe penalties under both the *OHS Act* and, in rare circumstances, the *Criminal Code*.

Purpose of the *OHS Act*

The *OHS Act* aims to:

- Promote and maintain the highest degree of physical, psychological, and social well-being of workers;
- Prevent workplace incidents, injuries, illnesses, and diseases;
- Protect workers from hazards that could affect their health and safety; and
- Ensure workers' rights are respected.

The framework assigns duties to multiple workplace stakeholders, with a common goal: protect workers and prevent injuries.

Who Owes Obligations to Workers?

Obligations to protect workers extend beyond the organization itself and can apply personally to its leadership. While the *OHS Act* imposes obligations on employers in the traditional sense (i.e., those who engage workers), its definitions of "employer" and "owner" also capture individuals at the highest levels of a business:

- "Employer" includes directors and officers of a corporation; and
- "Owner" includes the person who is registered under the *Land Titles Act* as the owner of the land on which work is, or may be, carried out.

What Obligations are Owed?

The *OHS Act* places overlapping duties on workplace parties, including:

- Employers are responsible for ensuring the health, safety, and welfare of workers, providing training, employing competent supervisors, enforcing and establishing zero-tolerance policies for violence and harassment, and establishing health and safety committees.
- Owners are responsible for maintaining land, infrastructure, and buildings so they do not endanger the health and safety of workers or any other person.



Delegation & Penalties

Corporate leaders cannot delegate ultimate responsibility for worker safety. Directors, officers and owners may be held personally liable, and the consequences for breaching *OHS Act* obligations are severe. In terms of monetary fines, the *OHS Act* imposes the following penalties:

- First offence: Fines up to \$500,000, six months in jail, or both; plus up to \$30,000/day for continuing offences.
- Second offence: Fines up to \$1 million, 12 months in jail, or both; plus up to \$60,000/day for continuing offences.
- Additional consequences: 20% victim surcharge and loss of Workers' Compensation Board premium rebates.

Charges under the *Criminal Code* can arise in certain circumstances. Directors, officers, and owners have a legal duty to take reasonable steps to prevent bodily harm to workers or other persons arising from that work or task. Criminal negligent charges may be laid when an individual, including a director, officer or owner, shows "wanton disregard" for safety of other persons. This can result in substantial fines and, in serious cases, imprisonment.

Final thoughts

Safety is everyone's responsibility, but employers, owners, and leaders carry heightened legal duties. Implementing a robust health and safety program, backed by education and enforcement, is essential to compliance and worker protection. Company leaders may be on the hook – failing to take "all reasonably practicable" steps to ensure *OHS Act* compliance can result in severe penalties.

For additional information, contact the authors or any member of our Occupational Health and Safety team.

Want to know more about common OHS mistakes in construction? [Watch this video](#) as Craig explains the documentation gaps that could put your projects at risk. Learn more about how our [OH&S group](#) can help you stay compliant and protect your business.