

# Delegating OHS Liability to Contractors



The OHS laws spell out who has a duty to protect the health and safety of workers in the workplace. Typically, the employer is the one required to take the steps necessary to fulfill that duty. But in some circumstances, typically at workplaces at which more than one employer is involved in the work being done, such as a construction site, an employer or the owner of a workplace can delegate that duty – or at least some aspects of it to someone else, such as a prime contractor or constructor. Here’s a chart showing when and to whom an employer or owner may delegate safety duties under the OHS law of each jurisdiction as well as the duties of the person subject to the delegation.

DELEGATION OF OHS DUTIES TO A CONTRACTOR		
		LAW
FED	OHS law doesn’t address the delegation of OHS duties to contractors.	<a href="#">Canada Labour Code</a>
AB	The owner of any worksite at which two or more employers are involved in the work at the site at the same time may appoint a “prime contractor,” who must ensure, as far as it’s reasonably practicable to do so, that the work at the worksite complies with the OHS law [Sec. 3].	<a href="#">OHS Act</a>

<b>BC</b>	<p>The owner of any workplace where workers of two or more employers are working at the same time may appoint a "prime contractor," who must:</p> <ol style="list-style-type: none"> <li>1) ensure that the activities of employers, workers and other persons at the workplace relating to occupational health and safety are coordinated; and</li> <li>2) do everything that's reasonably practicable to establish and maintain a system or process that will ensure compliance with the OHS law with respect of the workplace [Sec. 118].</li> </ol>	<a href="#"><u>Workers' Compensation Act</u></a>
<b>MB</b>	<p>The owner of a "construction project" site at which more than one employer or self-employed person is involved in work at the site at the same time may appoint a "prime contractor," who must:</p> <ol style="list-style-type: none"> <li>1) ensure, as far as is reasonably practicable, that every person involved in work on the project complies with the OHS laws;</li> <li>2) coordinate, organize and oversee the performance of all work at the construction project site and conduct its own activities in such a way as to ensure, as far as is reasonably practicable, that no one is exposed to risks to his or her safety or health arising out of, or in connection with activities at the construction project site;</li> <li>3) cooperate with any other person exercising a duty imposed by the OHS law; and</li> <li>4) comply with the OHS law [Secs. 7(1)-(3)].</li> </ol> <p>"Construction project" is defined as:</p> <ol style="list-style-type: none"> <li>1) the construction, demolition, repair, alteration or removal of a structure, building, complex, street, road, highway, pipeline, sewage system or electrical telecommunication or transmission line;</li> <li>2) the digging of, working in or filling a trench or excavation;</li> <li>3) the installation, modification, repair or removal of any equipment or machinery; or</li> <li>4) any work prescribed by regulation as a construction project [Sec. 1].</li> </ol>	<a href="#"><u>Workplace Safety and Health Act</u></a>
<b>NB</b>	<p>A "contracting employer" who directs the activities of one or more employers involved in work at a place of employment must:</p> <ol style="list-style-type: none"> <li>1) ensure, as far as is reasonably practicable to do so, that each employer complies with the OHS law with respect to that place of employment [Sec. 10.1(2)]; and</li> <li>2) comply with the OHS law and any order made in accordance with the OHS law [Sec. 10.1(3)].</li> </ol> <p>"Contracting employer" is defined as a person who through a contract, agreement or ownership, directs the activities of one or more employers [Sec. 1].</p>	<a href="#"><u>OHS Act</u></a>

<b>NL</b>	<p>A "principal contractor" engaged in a project must ensure, where it's reasonably practicable to do so, that employers, workers and self-employed persons performing work with respect to that project comply with the OHS law [Sec. 10].</p> <p>"Principal contractor" is defined as the person primarily responsible for the carrying out of a project and includes the person who owns the thing in respect of which the project is being carried out [Sec. 2(j)].</p>	<a href="#"><i>OHS Act</i></a>
<b>NT/ NU</b>	<p>If two or more employers have charge of an establishment, the owner of the establishment may appoint a "principal contractor," who must coordinate the activities of the employers in the establishment to ensure the health and safety of persons in the establishment [Sec. 4(2)].</p>	<a href="#"><i>Safety Act</i></a>

NS	<p>For general workplaces, a "contractor" must take every precaution that's reasonable in the circumstances to ensure:</p> <ol style="list-style-type: none"> <li>1) the health and safety of persons at or near the workplace;</li> <li>2) that the activities of the employers and self-employed persons at the workplace are coordinated;</li> <li>3) communication between the employers and self-employed persons at the workplace of information necessary to the health and safety of persons at the workplace;</li> <li>4) that the measures and procedures required by the OHS law are carried out at the workplace; and</li> <li>5) that every worker, self-employed person and employer performing work at the workplace complies with the OHS law [Sec. 14].</li> </ol> <p>"Contractor" is defined as a person who contracts for work to be performed at the premises of the person contracting to have the work performed, but doesn't include a dependent contractor or a constructor [Sec. 3(g)].</p> <p>For "projects," a "constructor" must take every precaution that's reasonable in the circumstances to ensure:</p> <ol style="list-style-type: none"> <li>1) the health and safety of persons at or near the project</li> <li>2) that the activities of the employers and self-employed persons at the project are coordinated;</li> <li>3) communication between the employers and self-employed persons at the project of information necessary to the health and safety of persons at the project;</li> <li>4) that the measures and procedures required by the OHS law are carried out at the project; and</li> <li>5) that every worker, self-employed person and employer performing work at the project complies with the OHS law [Sec. 15].</li> </ol> <p>"Constructor" is defined as a person who contracts for work on a project or who undertakes work on a project himself or herself [Sec. 3(f)].</p> <p>"Project" is defined as a construction project and includes:</p> <ol style="list-style-type: none"> <li>1) the construction, erection, excavation, renovation, repair, alteration or demolition of any structure, building, tunnel or work and the preparatory work of land clearing or earth moving; and</li> <li>2) work of any nature or kind designated by the Director as a project [Sec. 3(aa)].</li> </ol>	<p><a href="#"><u>OHS Act</u></a></p>
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ON	<p>For a "project" undertaken by a "constructor," the constructor must ensure that:</p> <ol style="list-style-type: none"> <li>1) the measures and procedures required by the OHS law are carried out on the project;</li> <li>2) every employer and every worker performing work on the project complies with the OHS law; and</li> <li>3) the health and safety of workers on the project is protected [Sec. 23(1)].</li> </ol> <p>"Constructor" is defined as a person who undertakes a project for an owner and includes an owner who undertakes all or part of a project by himself or by more than one employer [Sec. 1(1)].</p> <p>"Project" is defined as a construction project, whether public or private, including:</p> <ol style="list-style-type: none"> <li>1) the construction of a building, bridge, structure, industrial establishment, mining plant, shaft, tunnel, caisson, trench, excavation, highway, railway, street, runway, parking lot, cofferdam, conduit, sewer, water main, service connection, telegraph, telephone or electrical cable, pipe line, duct or well, or any combination thereof;</li> <li>2) the moving of a building or structure; and</li> <li>3) any work or undertaking, or any lands or appurtenances used in connection with construction [Sec. 1(1)].</li> </ol>	<a href="#"><u>OHS Act</u></a>
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<p><b>PE</b></p>	<p>For general workplaces, a "contractor" must ensure that:</p> <ol style="list-style-type: none"> <li>1) every reasonable precaution is taken to protect the occupational health and safety of persons at or near the workplace;</li> <li>2) the activities of the employers and self-employed persons at the workplace are coordinated;</li> <li>3) the communication of information necessary to the occupational health and safety of persons at the workplace occurs between the employers and self-employed persons at the workplace;</li> <li>4) the measures and procedures in the OHS law are carried out at the workplace; and</li> <li>5) every worker, self-employed person and employer performing work at the workplace complies with the OHS law [Sec. 14].</li> </ol> <p>"Contractor" is defined as a person who contracts for work to be performed at the workplace of the person contracting to have the work performed, but doesn't include a constructor [Sec. 1(e)].</p> <p>For a "project," a "constructor" must ensure that:</p> <ol style="list-style-type: none"> <li>1) every reasonable precaution is taken to protect the occupational health and safety of persons at or near the project;</li> <li>2) the activities of the employers and self-employed persons at the project are coordinated;</li> <li>3) the communication of information necessary to the occupational health and safety of persons at the project occurs between the employers and self-employed persons at the project;</li> <li>4) communication is facilitated between the constructor and a committee or representative required by the OHS law;</li> <li>5) the measures and procedures in the OHS law are carried out at the project; and</li> <li>6) every worker, self-employed person and employer performing work in respect of the project complies with the OHS law [Sec. 13].</li> </ol> <p>"Constructor" is defined as a person who contracts to do work on a project for an owner or who undertakes work on a project as an owner [Sec. 1(d)].</p> <p>"Project" is defined as a construction project and includes:</p> <ol style="list-style-type: none"> <li>1) the construction, erection, excavation, renovation, repair, alteration or demolition of a structure, building or tunnel and the preparatory work of land clearing or earth moving; and</li> <li>2) work of any nature or kind designated by the Director as a Project [Sec. 1(q)].</li> </ol>	<p><a href="#"><u>OHS Act</u></a></p>
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QC	<p>A "principal contractor" is bound to the same extent as an employer to observe the obligations imposed on employers by the OHS law, particularly that of taking the necessary steps to protect the health and ensure the safety and physical well-being of construction workers [Sec. 196].</p> <p>"Principal contractor" is defined as the owner or any other person who, on a construction site, is responsible for the carrying out of all the work [Sec. 1].</p> <p>"Construction site" is defined as a place where foundation, erection, maintenance, renovation, repair, alteration or demolition work is carried out in respect of a building or of civil engineering works, on and at the site itself, including the preparatory work of land clearing or earth moving and any other work determined by regulation, and the lodging, eating or recreational facilities put at the disposal of the construction workers by the employer [Sec. 1].</p>	<p><a href="#"><u>An Act respecting occupational health and safety</u></a></p>
SK	<p>A "contractor" must:</p> <ol style="list-style-type: none"> <li>1) ensure, insofar as is reasonably practicable, that every: <ol style="list-style-type: none"> <li>a) place of employment or worksite where an employer, employer's worker or self-employed person works pursuant to a contract between the contractor and the employer or self-employed person; or</li> <li>b) work process or procedure carried on at every place of employment where an employer, employer's worker or self-employed person works pursuant to a contract between the contractor and the employer or self-employed person</li> </ol> that isn't in the direct and complete control of an employer or self-employed person under contract with the contractor is safe for, without risk to the health of, and adequate with regard to facilities for the welfare of, all employers, workers or self-employed persons at the place of employment; </li> <li>2) post any required notice in a conspicuous location at every place of employment where an employer, employer's worker or self-employed person works pursuant to a contract between the contractor and the employer or self-employed person; and</li> <li>3) comply with the OHS law [Sec. 6].</li> </ol> <p>"Contractor" is defined as a person who, or a partnership or group of persons that, pursuant to one or more contracts, directs the activities of one or more employers or self-employed persons involved in work at a place of employment [Sec. 2(1)(d)].</p>	<p><a href="#"><u>OHS Act</u></a></p>

YT	<p>Every "constructor" must ensure, so far as is reasonably practicable, that during the course of each "project" the constructor undertakes:</p> <ol style="list-style-type: none"> <li>1) the measures and procedures required by the OHS law are carried out on the project;</li> <li>2) every employer and every person working on the project complies with the OHS law; and</li> <li>3) the health and safety of workers on the project is protected [Sec. 4].</li> </ol> <p>"Constructor" is defined as a person who undertakes a project for an owner and includes an owner who undertakes all or part of a project by themselves or by more than one worker [Sec. 1].</p> <p>"Project" is defined as a construction project, whether public or private, including:</p> <ol style="list-style-type: none"> <li>1) the construction of a building, bridge, structure, industrial establishment, mining plant, shaft, tunnel, caisson, trench, excavation, highway, railway, street, runway, parking lot, cofferdam, conduit, sewer, water main, service connection, telegraph, telephone or electrical line, tower, pipe line, duct, or well, any other similar thing, and any combination thereof;</li> <li>2) a mining development; and</li> <li>3) any work or undertaking or any lands or appurtenances used in connection with construction [Sec. 1].</li> </ol>	<a href="#"><u>OHS Act</u></a>
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