

Responding to JHSC Recommendations – Know The Laws of Your Province



Most jurisdictions require a written response within 30 days of receiving a JHSC recommendation.

There's a big difference between rejecting a JHSC recommendation and ignoring it. The former may be perfectly acceptable; the latter is not. OHS laws of all but 4 provinces (AB, NB, QC, SK) specify when and how employers must respond to JHSC recommendations. Here are the rules in each part of Canada.

OHS Rules on Responding to JHSC Recommendations Across Canada

FEDERAL

Employer must respond in writing within 30 days of receiving JHSC recommendations, indicating what, if any, action will be taken and when (*Can. Labour Code*, Sec .125(1) (z.10))

ALBERTA

OHS Act requires employers to cooperate with JHSC but doesn't specify what employers must do in response to a JHSC recommendation

BRITISH COLUMBIA

(1) Employer must respond in writing to JHSC within 21 days of receiving recommendation, either: (a) indicating acceptance of the recommendation, or (b) giving the employer's reasons for not accepting the recommendation; (2) A JHSC co-chair may report to the Board if the employer doesn't accept recommendations and Board may investigate and try to resolve the matter; (3) If it's not reasonably possible to provide a response before the end of the 21-day period, employer must provide within that time a written explanation for the delay, along with an indication of when the response will be provided; (4) A co-chair may report to the Board if the JHSC isn't satisfied that employer's explanation provided under subsection (3) is reasonable in the circumstances; and (5) Upon receiving a report under subsection (4), the Board may investigate the matter and order a deadline for the employer to respond (*Workers Comp. Act*, Sec. 39)

MANITOBA

(1) Employer must respond in writing within 30 days of receiving a recommendation from a JHSC or co-chair that identifies anything that may pose a health or safety danger to any person; (2) Response must: (a) contain a timetable for implementing recommendations the employer accepts, including any interim control measures that the employer will implement to address the danger; or (b) give reasons why employer disagrees with any recommendations that it doesn't accept; (3) If no agreement can be reached regarding the employer's response, any of the following may refer the matter to a safety and health officer: (a) the employer; (b) the JHSC; (c) a member of the JHSC; (d) if there is no JHSC, the representative; (4) If a dispute regarding a recommendation is referred to a safety and health officer, the officer may issue an order or a decision in accordance with the Act; and (5) Nothing in this section limits the right of a worker to refer

any matter respecting safety and health directly to a safety and health officer (*WSH Act*, Sec. 41.1)

NEW BRUNSWICK

OHS Act requires employers to cooperate with JHSC but doesn't specify what employers must do in response to a JHSC recommendation

NEWFOUNDLAND

(1) Employer must respond in writing to a JHSC recommendation within 30 days indicating that the recommendation has been accepted or rejected and, if the latter, list the reason for the rejection; and (2) Employer must provide the JHSC periodic written updates on the implementation of an accepted recommendation until implementation is complete (*OHS Act*, Sec. 5(f))

NOVA SCOTIA

(1) Employer who receives written recommendations from a JHSC **and** a written request for a response must respond in writing within 21 days; (2) Written response must: (a) indicate acceptance of the recommendations; or (b) give reasons for disagreement with any recommendations that employer doesn't accept; (3) If it's not reasonably possible to provide a response before the 21 days expires, employer must provide within that time a reasonable explanation for the delay, indicate to the JHSC when the response will be forthcoming, and provide the response as soon as it's available; and (4) If the JHSC isn't satisfied that the explanation provided for a delay in responding is reasonable in the circumstances, the JHSC chair or co-chairs must promptly report this fact to an OHS officer (*OHS Act*, Sec. 34)

ONTARIO

(1) Constructor or employer must respond in writing to a JHSC or JHSC co-chair written recommendation within 21 days; and
(2) Response must contain a timetable for implementing the recommendations the constructor or employer agrees with or give reasons for disagreeing with any recommendations it doesn't accept (*OHS Act*, Secs. 8(20) and 8(21))

PRINCE EDWARD ISLAND

(1) Employer must respond in writing within 30 days of receiving a JHSC's written recommendation; (2) Written response must: (a) indicate acceptance of the recommendations; (b) give reasons for disagreement with recommendations that the employer doesn't accept; or (c) if it's not reasonably practicable to provide a response before the 30-day period expires, provide within that time a reasonable explanation for the delay indicating to the JHSC when the response will be coming, and provide the response as soon as it's available; and (3) The JHSC must promptly report to an OHS officer if it considers the explanation provided by the employer under clause (2)(c) unacceptable or unreasonable (*OHS Act*, Sec. 27)

QUÉBEC

OHS Act requires employers to cooperate with JHSC but doesn't specify what employers must do in response to a JHSC recommendation

SASKATCHEWAN

(1) If an employer doesn't resolve an issue or address a concern raised by the JHSC regarding the health, safety and welfare of the workers at a place of employment, it must provide the JHSC written reasons for not resolving the issue or addressing the concern; (2) If the parties can't resolve an issue or address a concern after employer provides its written

reasons, the employer, JHSC or any JHSC member may refer the matter to an occupational health officer; (3) The officer may: (a) determine that there's no issue or concern and inform the person who referred the matter of the determination; (b) try to mediate an acceptable resolution of the matter and, if the matter can't be resolved, give written reasons to the employer and JHSC why the matter can't be resolved; or (c) issue a notice of contravention; and (4) Nothing in this section limits the right of a worker to refer any matter respecting occupational health and safety directly to an occupational health officer (*Sask. Emp. Act*, Sec. 3-29)

NORTHWEST TERRITORIES & NUNAVUT

Employer must reply in writing as soon as reasonably possible after receiving a JHSC recommendation (*OHS Regs.*, Sec. 52)

YUKON

(1) Act requires employer to consult and co-operate with JHSC but doesn't specify how and when it should respond to written recommendations (*WSC Act*, Sec. 27); and (2) Prime contractor must respond to any JHSC recommendations within a reasonable time (*Act*, Sec. 31(f))