

Dealing with Contractors: A Look at Recent Cases



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'Contractor liability' is perhaps one of the most complex areas of OHS law. Under OHS legislation, a company has safety obligations towards its own employees, of course, but it may also have safety duties towards workers whom it doesn't directly employ. Further levels of complexity arise from different statutory provisions from one jurisdiction to the next. In some provinces, potential liabilities arise from the law's definitions of 'employer' and 'constructor,' while in others, liability can arise from an employer's specific duties. Similarly, in some provinces, a company can assign some OHS responsibility to a prime contractor or constructor for a construction project only; in other jurisdictions, a broader delegation of such responsibilities to a prime contractor may be possible.

To comply with these obligations and avoid liabilities when dealing with contractors, companies must be able to show due diligence, notably through:

- Knowing the laws
- Having in place functional safety programs
- Pre-qualifying contractors
- Properly monitoring those who are hired.