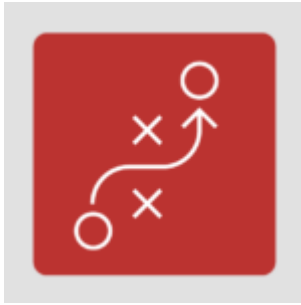


JHSC Compliance Game Plan



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Canadian OHS laws are intended to give all stakeholders a role in ensuring a safe workplace rather than allocating most of the responsibility to employers the way the US and most other industrialized countries do. The Joint Health and Safety Committee (JHSC), in which members of management and workers from the site work together to identify, assess and control hazards, is one of the centerpieces of this Internal Responsibility System (IRS). That's why the OHS laws of every jurisdiction include specific, detailed requirements to ensure that a JHSC is established and allowed to carry out its functions. Here's a 16-step Game Plan you can follow to [ensure compliance with JHSC requirements while maximizing the effectiveness of your own committee](#).

Step 1. Determine Whether Your

Workplace Must Have a JHSC

The [OHS laws spell out which workplaces require a JHSC or health and safety representative](#) (safety rep) based on how many regularly employed workers there are at the site. Although the rules vary, these are the typical ranges:

- **0 to 4 workers:** Neither a JHSC nor a safety rep is required;
- **5 to 19 workers:** Safety rep is required; and
- **20 or more workers:** JHSC is required.

Workplaces Required to Establish a JHSC or Safety Rep.

JURISDICTION	JHSC REQUIRED	SAFETY REP REQUIRED
FEDERAL	At each workplace employer controls with 20 or more normally employed employees (unless workplace is a ship or MOL grants an exemption) [Can Labour Code, Sec. 135(1)].	At each workplace employer controls with fewer than 20 normally employed employees (unless workplace is a ship or MOL grants an exemption) [Can Labour Code, Sec. 136(1)].

JURISDICTION	JHSC REQUIRED	SAFETY REP REQUIRED
ALBERTA	<p>Employer must establish JHSC for site where it employs 20 or more workers or where Director designates the site as requiring a JHSC [OHS Act, Section 13(1)].</p>	<p>Employer must establish safety rep at any site where it employs 5 to 19 workers or where Director designates site as requiring a safety rep [OHS Act, Section 14(1)].</p> <p>Prime contractor must designate a person in writing for purposes of ensuring cooperation between the employer and workers in respect to health and safety and implementing a system to address the matters set out in section 13(6) [OHS Act, Section 7(b)].</p>
BRITISH COLUMBIA	<p>At each workplace employer controls where 20 or more of its workers are regularly employed; WorkSafeBC may order or OK multiple or overlapping JHSCs at same site [Workers' Comp Act, Sec. 31].</p>	<p>At each workplace employer controls where 9 to 19 of its workers are regularly employed or any other workplace WorkSafeBC orders [Workers' Comp Act, Sec. 45].</p>

JURISDICTION	JHSC REQUIRED	SAFETY REP REQUIRED
MANITOBA	<p>Employer: At each workplace where 20 or more of its workers are: i. regularly employed; or, ii. involved in work expected to last at least 90 days; any other workplace Board orders [<i>Workers' Health & Safety Act</i>, Sec. 40(1)]</p> <p>Prime Contractor: At each construction project involving 20 or more workers where work expected to last longer than 90 days [<i>Workers' Health & Safety Act</i>, Sec. 40(3)].</p>	<p>Employer: At each workplace, other than a construction project, where 5 or more workers are regularly employed that's not required to have a JHSC [<i>Workers' Health & Safety Act</i>, Sec. 41(1)(a)].</p>

JURISDICTION	JHSC REQUIRED	SAFETY REP REQUIRED
NEW BRUNSWICK	<p>Employer: At each workplace with 20 or more regularly employed employees other than a construction project site [OHS Act, Section 14(1)].</p> <p>Medium Project Site Contractor: At any site for which contractor is responsible where work expected to last longer than 90 days with 30 to 499 employees [OHS Act, Section 14.3(1)].</p> <p>Large Project Site Contractor: At any site for which contractor is responsible with 500 or more employees at any given time [OHS Act, Section 14.4(2)].</p>	<p>Employer: At each workplace with 5 to 19 regularly employed employees other than a construction project site if OHS policy provides for safety rep or WorkSafeNB orders [OHS Act, Section 17(1)].</p> <p>Project Site Contractor: At any site for which contractor is responsible with: i. 5 to 29 employees regardless of how long work lasts; or ii. 30 to 499 employees expected to last longer than 90 days [OHS Act, Section 17.1(1)].</p>
NEWFOUNDLAND	At each workplace with 20 or more employed workers [OHS Act, Section 37].	At each workplace with 19 or fewer employed workers [OHS Act, Section 41].

JURISDICTION	JHSC REQUIRED	SAFETY REP REQUIRED
NOVA SCOTIA	<p>Employer: At each workplace with 20 or more regularly employed persons.</p> <p>Constructor: At each project site with 20 or more regularly employed persons [<i>OHS Act</i>, Section 29(1)].</p>	<p>Employer: At each workplace with 5 to 19 regularly employed persons [<i>OHS Act</i>, Section 33(1)].</p> <p>Constructor: At each project site with 5 to 19 regularly employed persons [<i>OHS Act</i>, Section 33(2)].</p> <p>Any workplace with fewer than 5 regularly employed persons if Director orders [<i>OHS Act</i>, Section 33(3)].</p>

JURISDICTION	JHSC REQUIRED	SAFETY REP REQUIRED
ONTARIO	<p>Employer: At each workplace with 20 or more regularly employed workers or fewer than 20 if workplace is subject to <i>Designated Substance Reg.</i> or MOL orders JHSC for site [<i>OHS Act</i>, Section 9(2)].</p> <p>Constructor: At project site where work expected to last longer than 3 months that has 20 or more regularly employed workers or fewer than 20 if workplace is subject to <i>Designated Substance Reg.</i> or MOL orders JHSC for site [<i>OHS Act</i>, Sections 9(1) + (2)].</p>	<p>Employer/Constructor: At each workplace where no JHSC is required where number of workers regularly exceeds 5 (or for which MOL orders safety rep) [<i>OHS Act</i>, Sections 8(1) and 8(2)].</p>

JURISDICTION	JHSC REQUIRED	SAFETY REP REQUIRED
PRINCE EDWARD ISLAND	<p>Employer: At each workplace with 20 or more persons regularly employed by employer, or for which Director orders a JHSC [<i>OHS Act</i>, Section 25(1)].</p> <p>Constructor: At each project with 20 or more persons regularly employed by a constructor for which work is expected to last longer than 3 months, or for which Director orders a JHSC [<i>OHS Act</i>, Section 25(2)].</p>	<p>Employer: At each workplace where no JHSC is required with 5 or more persons regularly employed by employer, or for which Director orders a safety rep [<i>OHS Act</i>, Section 26(1)].</p> <p>Constructor: At each project where no JHSC is required with 5 or more persons regularly employed by a constructor for which work is expected to last longer than 3 months, or for which Director orders a safety rep [<i>OHS Act</i>, Section 26(2)].</p>

JURISDICTION	JHSC REQUIRED	SAFETY REP REQUIRED
QUEBEC	At any establishment employing more than 20 workers and listed as a site requiring a JHSC in Schedule 1 of the OHS regulations [<i>OHS Act</i> , Section 68].	<p>*In any workplace with a JHSC, at least 1 member must be designated as safety rep to act independently of JHSC [<i>OHS Act</i>, Section 87].</p> <p>* In any establishment listed as a site requiring a JHSC in Schedule 1 of the OHS regulations, regardless of how many workers, the union (or 10% of workers if there is no union) may designate safety rep for site, as long as it/they provide employer + CNESST written notice [<i>OHS Act</i>, Section 88].</p>

JURISDICTION	JHSC REQUIRED	SAFETY REP REQUIRED
SASKATCHEWAN	<p>Employer: At every place of employment where 10 or more workers of one employer work, or for which Director orders JHSC [<i>Sask. Employment Act</i>, Section 3-22(1)].</p> <p>Contractor: At every construction site where 10 or more workers or self-employed persons work or are expected to work and for which work is expected to last longer than 90 days, or for which Director orders JHSC [<i>OHS Regs.</i>, Section 4-1].</p>	<p>Employer/Contractor: At every place of employment listed in Table 7 of the Appendix to the Regs. where more than 4 but fewer than 10 workers of one employer work [[<i>Sask. Employment Act</i>, Section 3-24(1); <i>OHS Regs.</i>, Section 4-8(1)].</p>
NORTHWEST TERRITORIES & NUNAVUT	<p>At each workplace where 20 or more workers work or are likely to work more than 90 days, or for which Chief Safety Officer orders JHSC [<i>OHS Regs.</i>, Section 37].</p>	<p>At each workplace with fewer than 20 workers and no JHSC [<i>OHS Regs.</i>, Section 39].</p>

JURISDICTION	JHSC REQUIRED	SAFETY REP REQUIRED
YUKON	At each workplace where 20 or more workers are regularly employed; Board can order JHSCs at other sites [<i>WSC Act</i> , Section 36].	An employer that's not required to establish and maintain a committee at a workplace must ensure that at least one worker health and safety representative is selected for the workplace: (a) when the number of workers regularly employed by the employer is 5 or more but fewer than 20; or (b) if required by order of the Board [<i>WSC Act</i> , Section 39(1)].

Source: Bongarde

Exceptions: Some jurisdictions allow employers at sites with 20 or more workers to apply to the government OHS agency for an exemption from JHSC requirements; conversely, the OHS agency can also order a site with fewer than 20 workers to establish a JHSC if it deems it necessary for safety. Other exceptions may also apply. For example, in Ontario, workplaces that are subject to the OHS *Designated Substances Regulation* must have a JHSC even if they have fewer than 20 workers.

Step 2. Follow Specific Rules for Establishing a JHSC at a Construction Site

Most jurisdictions have special rules for determining when a JHSC or safety rep is required for a construction project. The 3 key differences:

- The person responsible for creating the JHSC (or

designating the rep) is the prime contractor, constructor or contractor responsible for the site;

- The rules apply only if work at the site is expected to last longer than 90 days; and
- Unlike non-construction sites where you count only workers employed by the employer, with construction sites you count any workers (and, in some jurisdictions, self-employed persons) who work or are expected to work at the site, regardless of who employs them.

Step 3. Establish the Required Number of JHSCs at the Workplace

The basic rule is that each work site required to have a JHSC must have its own committee. But there are significant exceptions:

- In some jurisdictions including Manitoba, the OHS agency can allow one JHSC to represent multiple sites or require multiple JHSCs at a single site; and
- In Alberta, companies with 20 or more workers only need one JHSC for the entire company, except at multi-employer sites where prime contractors must have a JHSC at each site with 20 or more workers expected to last longer than 90 days.

Step 4. Ensure JHSC Has the Right Number of Members

A JHSC must have at least 2 members, one representing workers and the other management. But [rules vary by jurisdiction](#):

JURISDICTION	Number of JHSC Members Required
FEDERAL	At least 1 worker + 1 management member
ALBERTA	At least 2 worker + 2 management members

JURISDICTION	Number of JHSC Members Required
BRITISH COLUMBIA	At least 4 total members, including at least 2 worker + 2 management
MANITOBA	4 to 12, at least half of which must be worker members
NEW BRUNSWICK	As employers and workers agree, provided that workers + management are equally represented; JHSCs membership requirements at construction sites depend on numbers of workers at the site
NEWFOUNDLAND	2 to 12, at least half of which must be worker members
NOVA SCOTIA	As agreed by employer and workers, provided that at least half represent workers
ONTARIO	*If less than 50 workers: At least 1 worker + 1 management member *If 50 or more workers: At least 2 worker + 2 management members
PRINCE EDWARD ISLAND	As agreed by employer and workers, provided that at least half of which represent workers
QUÉBEC	As agreed, provided that at least half represent workers
SASKATCHEWAN	2 to 12, at least half of which must be worker members
NORTHWEST TERRITORIES & NUNAVUT	Number not specified but workers and management must be equally represented
YUKON	At least 4 total members, including at least 2 worker + 2 management

Source: Bongarde Media

Step 5. Ensure that JHSC Has Adequate Worker Representation

The 'J' in 'JHSC' is there for a reason. The committee must be a joint undertaking composed of employer and worker members working together to ensure safety at the site. Recognizing where the balance of power typically lies, the [OHS laws mandate that the number of worker members](#) be at least equal to the number of employer members to ensure independence. All but 5 jurisdictions (AB, NB, NT, NU, PEI) allow for workers to have more than half of the committee seats.

The key to compliance is ensuring that the company doesn't dominate the JHSC. Below are some suggested compliance strategies.

Consider Members' Functions, Not Their Titles: Individuals may be deemed employer members even if they're not called that and don't have a management title. The acid test isn't what the person is called but the functions the member performs. Managerial functions typically include the authority to hire, fire, discipline, or recommend any of the above.

Company Can't Influence Selection of Worker Members: Only workers or unions are allowed to choose the worker members of the JHSC. Selection may be by open vote, secret ballot, or appointment, depending on whether the workers are represented by a union. Management isn't allowed to influence the selection or suggest, let alone force, a worker member to resign, even if the motive for wielding influence is a sincere desire to promote safety rather than dominate the JHSC.

Union Can Control Selection of Worker Members: While management can't meddle in the process, most jurisdictions allow the workers' unions to control election of worker members. This is true even if not all the workers in the workplace are in the union. In most provinces, unions can

control elections of worker representatives to the JHSC even if it doesn't represent all of the non-managerial workers in the workplace.

Step 6. Ensure the JHSC Has the Required Co-Chairs

A JHSC must have 2 co-chairs, 1 chosen by and representing workers and the other chosen by and representing management.

Exception: PEI doesn't have specific rules for JHSC chairs, which allows committees to decide this for themselves.

Step 7. Ensure All JHSC Members Are Properly Qualified

The last thing to verify is whether all members serving on your JHSC, both employer and worker, have the qualifications required under OHS laws. Individuals who exercise management functions can't serve as worker members. BC, Manitoba, Newfoundland, Nova Scotia and Ontario state that members of the JHSC must come from the same workplace as the workers they represent, which means that they can't serve on the JHSC when their employment at the particular site ends.

Step 8. Ensure JHSC Members Are Properly Trained to Serve on Committee

In all but 3 jurisdictions (Nova Scotia, PEI and Québec), JHSC co-chairs and members must receive [specialized training](#) that goes beyond the normal safety training all workers are required to receive and includes [training on how to carry out their functions as JHSC members](#). Such training typically

covers:

- The jurisdiction's OHS Act and regulations;
- The JHSC's functions and duties;
- Preparation to perform hazard assessment and control, workplace inspections and investigations, work refusals and other JHSC functions;
- The rights and responsibilities of JHSC members;
- JHSC procedures and meetings; and
- JHSC recommendations.

In Ontario, B.C. and New Brunswick, JHSC training must be certified by documentation indicating that the member successfully completed the required courses and listing the dates. As with other forms of training required by OHS laws, JHSC member training must be provided at the employer's expense. In addition, the time taken for required training counts as regular work hours that can't be deducted from the JHSC member's wages or benefits.

Three of the 11 jurisdictions where JHSC training is required specify when training must be completed:

- BC: As soon as practicable and no longer than 6 months after being designated a JHSC member (unless the member received the required training while on that or another JHSC in the past 2 years);
- New Brunswick: Within 12 months after designation (unless the member already received that training before designation)'except at construction sites, where the member must have taken the training before, and only before, designation;
- Yukon: Within 6 months of the date they're selected as committee members.

In Ontario, JHSC training must be renewed via a 6.5-hour refresher course every 3 years. Under federal law, employers must review their JHSC training program at least once every 3

years or more often in response to changes in circumstances that may affect the training's effectiveness.

Step 9. Honor JHSC Members' Education Leave Rights

Some jurisdictions also give JHSC members education leave, i.e., the right to take time off for **any** OHS training with no loss of pay or benefits. It's important to understand that education leave is **in addition** to required JHSC training. But there are also subtle differences in approach. Thus, in BC, each JHSC member and health and safety rep. gets annual education leave of 8 hours and 4 hours, respectively, **in addition to** time off for required JHSC training.

In MB, members also get educational leave of up to 16 hours or the hours in 2 normal work shifts, whichever is greater, but it's unclear whether that leave is in addition to JHSC training hours. In Sask. and Alberta, where JHSC training is required just for co-chairs, **any** JHSC member has the right to take leave to attend OHS training of:

- Up to 5 working days per year, provided that the member requests it; and
- Alberta: 16 hours or 2 normal work shifts, whichever is greater.

Step 10. Ensure JHSC Has Appropriate Rules of Procedure

To ensure that your company's JHSC can effectively and efficiently fulfill its functions, it should set ["rules of procedure"](#) (also called "terms of reference") that specify, among other things, how long members will serve on the committee, how meetings will be run and how conflicts will be resolved. Rules of procedure enable the JHSC to carry out its

vital functions effectively; in addition, at least 7 jurisdictions (FED, AB, BC, MB, NS, PEI and YK) specifically require JHSCs to create their own rules of procedure; if they don't, the rules listed in the OHS regulations will apply.

Step 11. Ensure JHSC Holds Regular Meetings at Appropriate Intervals

The JHSC must hold regular meetings during regular work hours at least [as often as required by the jurisdiction's OHS laws:](#)

- **Every 3 months:** Manitoba, Newfoundland, Northwest Territories, Nunavut, Ontario, Quebec and Saskatchewan;
- **Once a month:** British Columbia., New Brunswick, Nova Scotia, Prince Edward Island and Yukon; and
- **9 times a year:** Federal.

Alberta is the only jurisdiction that gives the JHSC complete discretion over meetings schedules. The OHS agency can also order the JHSC to hold more frequent regular meetings or convene special meetings. In addition to regular meetings, the JHSC must hold special meetings to deal with situations that can't wait for the next scheduled meeting.

Step 12. Ensure JHSC Meetings Are Conducted Appropriately

JHSC Meeting Notification: The JHSC needs to give advanced notice of its meetings schedule to members to ensure members show up on time and are adequately prepared. In Manitoba, the JHSC must give members at least 3 days' prior notice of a regularly scheduled meeting. Giving such advanced notice is a good idea even if it isn't legally required.

The JHSC Meeting Agenda: The JHSC co-chairs are generally responsible for scheduling and preparing the agenda for

regular meetings, which typically includes:

- Review of old business and the previous meeting's minutes;
- Discussion of the most recent workplace inspection;
- Discussion of safety concerns raised by workers;
- Discussion of new business, such as recent safety incidents, new equipment in the workplace, changes in the OHS laws or government orders;
- Discussion of any seasonal issues, such as cold stress in the winter; and
- Decisions addressing new issues, such as determining if any formal recommendations should be made to the employer about identified safety hazards.

When JHSC Meetings Should Be Held: The JHSC should meet during regular working hours. But scheduling meetings can be tricky, especially if the company operates 24/7 or workers work in various shifts. For example, if a company has 3 shifts (day, afternoon and night), scheduling the JHSC meeting for first thing in the morning may be convenient for the night workers (who are just getting off) and the day workers (who are just starting) but not for the members of the afternoon shift who may not start work until late in the afternoon.

Similarly, meetings scheduled for the end of the day shift won't be convenient for the night shift workers. You'll have to work out some kind of fair arrangement to allow the maximize number of members to participate. One option is to alternate when the meetings are held to give everyone a chance to attend at least some of the meetings.

Where JHSC Meetings Should Be Held: The JHSC should meet at the workplace. Some jurisdictions require the employer to provide a place for meetings to be held, such as a conference room, as well as resources for the meeting, such as paper, pens and perhaps someone to transcribe the minutes. For example, BC requires an employer to provide the JHSC with the

equipment, premises and clerical personnel it needs to carry out its duties and functions.

The Need for a Quorum: The JHSC can legally conduct business only if a quorum of its members is present. Some jurisdictions, such as Fed, AB, MB, NL, QC and SK, specify in their OHS laws what constitutes a quorum. Most require at least half of the members to be present and that at least half of those present be worker representatives. The remaining jurisdictions allow the JHSC to set its own quorum requirements in its rules of procedure.

JHSC Members Must Be Paid for Meeting: Remember that JHSC members are entitled to be paid at their normal wage rates for their time attending meetings and performing other JHSC functions.

Step 13. Ensure JHSC Keeps Meeting Minutes

OHS laws require the JHSC to keep minutes of its meetings. The minutes should be used not only to summarize what was discussed and decided in the meeting but also to document the JHSC's performance of its functions and compliance with its duties under the OHS laws. The regulators in some jurisdictions have specific minutes forms that the JHSC is required to use. In other jurisdictions, the JHSC may use whatever form it wants.

Step 14. Ensure JHSC Meeting Minutes Are Properly Posted in the Workplace

The meeting minutes must be posted in the workplace, usually by the employer but sometimes by the JHSC. For example, BC

requires the employer to post the minutes from the 3 most recent JHSC meetings. The OHS laws also require the JHSC (or the employer) to retain these minutes and have them available to a government safety inspector upon request. How long the minutes must be retained depends on the jurisdiction and ranges from 2 to 10 years. In addition, the JHSC or employer may have to send the meeting minutes to the jurisdiction's safety regulator or workers' comp board.

Step 15. Respond to All JHSC Recommendations

[OHS laws require employers to respond to the JHSC's recommendations](#), typically within 30 days. [Response must be in writing](#) and indicate whether the employer has accepted the recommendation. If the [employer rejects the recommendation](#), the response must list the reasons why. What you can't do is simply ignore a JHSC recommendation.

Step 16. Monitor the Effectiveness of Your Workplace JHSC

As an OHS professional, you understand that simply having an OHS program isn't much good if you don't regularly audit its effectiveness. The same principle applies to the JHSC. While mandatory in only 1 province—British Columbia—carrying out [regular effectiveness audits of your JHSC](#) is highly advisable in all parts of Canada, perhaps as part of your broader annual OHS program audit.

Compliance Strategy: Review the following JHSC records:

- The JHSC's terms of reference, bylaws and procedures;
- Minutes of JHSC meetings;
- JHSC meeting attendance records;
- JHSC written recommendations;

- Records of response to JHSC recommendations, including corrective action reports;
- JHSC workplace inspection reports;
- JHSC incident investigation (including near misses);
- Records created by JHSC members involved in work refusals;
- JHSC member training and certification records; and
- Previous JHSC evaluations.

To ensure compliance with JHSC requirements, verify that:

- The JHSC has the proper number and types of members;
- The worker JHSC members were properly selected;
- The employer JHSC members were properly selected;
- The JHSC performed each of its required functions and responsibilities;
- The JHSC met regularly as required;
- The employer properly responded to JHSC recommendations;
- Each JHSC member got the time off required by law;
- The JHSC got the equipment, space, clerical information and information it was entitled to receive from the employer;
- The JHSC properly prepared and distributed its meetings reports;
- The employer met its duties with regard to posting and keeping JHSC information; and
- Each JHSC member received all of the instruction and training required.

Also focus on whether the JHSC is making a real and positive difference and not lapsing into [common pitfalls that can undermine its effectiveness](#). Questions to ask in [assessing JHSC effectiveness](#) include:

- Do members understand and capable of articulating the JHSC's role and extent of its authority;
- Do workers know the JHSC exists and what it does;
- Do workers know who the JHSC's members are and what they

do;

- Do workers direct health and safety suggestions or complaints to the JHSC;
- Do supervisors consider the JHSC a threat or an ally;
- Do supervisors work with or around the JHSC;
- Do JHSC members reach out to workers, supervisors and management;
- Does the JHSC act fast to deal with matters brought to its attention; and
- Are the JHSC's recommendations specific and realistic.

Distribute a copy of the written audit report to both the employer and JHSC and ensure the JHSC discusses the audit evaluation at its next meeting and records the discussions in the meeting minutes.