

Work Refusal Rules Across Canada



Work refusals are not only highly disruptive but fraught with legal danger if you don't handle things the right way. Here's a rundown of the key things OHS directors need to know to deal effectively with a work refusal at their workplace.

Workers' OHS Rights to Refuse Dangerous Work (by Jurisdiction)

Juris.	Triggers	Limitations	Refusal Process	Protections
Federal [Canada Labour Code, Secs. 128 to 131]	<p>Employees may refuse work if reasonable cause to believe:</p> <ul style="list-style-type: none"> • Use or operation of machine or thing endangers them or another employee; • A workplace condition endangers them; or • Performing activity endangers them or another employee(1) 	<p>*No refusal if:</p> <ul style="list-style-type: none"> • It puts another person's life, health or safety in direct jeopardy; or • The danger is a normal condition of employment <p>*Additional limitations of refusals on ships + aircraft</p>	<p>*Employee brings complaint to supervisor</p> <p>*If can't resolve, either side may ask JHSC or health + safety rep to jointly investigate to resolve problem or find no danger</p> <p>*Either side may appeal investigation results to MOL</p> <p>*MOL investigates + either orders employee back to work or employer to implement remedial measures</p> <p>*Employee must return if ordered back or after ordered remedial measures are taken</p> <p>*Slightly different procedures for refusals to operate machines</p>	<p>*Employee gets regular wages + benefits during refusal as do other employees affected by work stoppage caused by refusal unless barred by collective agreement</p> <p>*Employees must repay if refusing employee knew refusal was unjustified</p> <p>*Employer may assign employee or affected employees to reasonable alternative work during stoppage</p>
Alberta [OHS Act, Secs. 31 to 34]	<p>If worker believes on reasonable grounds that:</p> <ul style="list-style-type: none"> *There's a dangerous condition at the work site; or *The work endangers his/her own, or a co-worker or other person's health + safety 	<p>Refusal right subject to workers' duty to take reasonable care to protect health + safety of other persons at or in vicinity of work site under Sec. 5(a) of Act</p>	<p>*Worker reports refusal to supervisor or employer</p> <p>*Employer inspects jointly with JHSC, health + safety rep or another worker + either resolves or finds no danger</p> <p>*Employer gives written report to worker + JHSC or health + safety rep, any of whom may appeal to govt.</p> <p>*Govt. investigates + either orders worker back to work or employer to implement remedial measures</p> <p>*Worker must return if govt. finds no danger or after ordered remedial measures are taken</p>	<p>*Refusing worker entitled to wages + benefits for refusal time + may be temporarily assigned to alternative work</p> <p>*Employer can assign another worker to do the work if it concludes that no danger exists + gives other worker notice listing info required by Sec. 31(8)</p>
BC [OHS Regs., Secs. 3.12 to 3.13]	<p>A person must not carry out any work process or operate any tool, appliance or equipment if he/she has reasonable cause to believe it would create undue hazard to health + safety of any person(2)</p>	<p>None specified</p>	<p>*Worker reports unsafe circumstances to supervisor or employer</p> <p>*Employer or supervisor must inspect + either resolve problem or find no danger</p> <p>*If worker unsatisfied, employer or supervisor must investigate in refusing worker's presence jointly with JHSC, health/safety rep or another worker</p> <p>*If still unresolved, either side can appeal to WorkSafeBC which will send officer to investigate + issue whatever orders he/she thinks necessary</p> <p>*Worker must return if no danger found or after remedial measures ordered by WorkSafeBC are taken</p>	<p>Employer may temporarily reassign refusing worker to alternative work with no loss of pay or benefits</p>
Manitoba [WSH Act, Sec. 43]	<p>Worker may refuse work that worker believes on reasonable grounds is a danger to his/her own or another worker or person's safety or health</p>	<p>None specified</p>	<p>*Worker reports refusal to immediate supervisor, employer or person in charge</p> <p>*If situation not fixed immediately, person who gets refusal does or designates someone to do an inspection with JHSC, health/safety rep or a worker in presence of refusing worker</p> <p>*If situation not fixed, the refusing worker, JHSC member, health/safety rep or worker who participated in inspection can notify govt. OHS officer</p> <p>*OHS officer investigates + issues orders he/she thinks necessary</p> <p>*Worker must return if ordered back or after remedial measures ordered by OHS officer are taken</p>	<p>*Refusing worker entitled to wages + benefits for refusal time + may be temporarily assigned to alternative work</p> <p>*Employer can assign another worker to do the work if: i. it gives the worker notice of the refusal listing info required by Sec. 43(b); and ii. If practicable, the refusing worker advises the would-be replacement worker of his/her refusal</p>
New Brunswick [OHS Act, Secs. 19 to 23]	<p>Employee may refuse to do any act that worker has reasonable grounds for believing is likely to endanger his/her own or any other employee's health or safety</p>	<p>None specified</p>	<p>*Employee reports concern to supervisor</p> <p>*Supervisor investigates in employee's presence + either fixes problem or finds no danger</p> <p>*If employee unsatisfied, notifies JHSC or WorkSafeNB officer if there's no JHSC</p> <p>*If employee still not satisfied, can appeal to WorkSafeNB</p> <p>*WorkSafeNB officer investigates + issues whatever orders he/she considers necessary</p> <p>*Employee must return if WorkSafeNB finds no danger or after remedial measures ordered by WorkSafeNB are taken</p>	<p>*Refusing employee entitled to wages + benefits for refusal time + may be temporarily assigned to alternative work</p> <p>*Employer can assign another employee to do the work if it gives employee notice of the refusal and his/her rights under the OHS Act</p>

Newfoundland [OHS Act, Secs. 45 to 49; and OHS Regs., Sec. 5]	Worker may refuse to do work that worker has reasonable grounds to believe is dangerous to his/her own or another person at the workplace's health + safety	None specified	<ul style="list-style-type: none"> *Worker reports refusal to supervisor *If worker not satisfied with response, he/she can notify govt. OHS officer *If refusal can't be resolved, employer must notify JHSC or health/safety rep. and WorkplaceNL *OHS officer investigates + issues any orders he/she thinks necessary *Worker must return if WorkplaceNL finds no danger or after remedial measures ordered by WorkplaceNL are taken 	<ul style="list-style-type: none"> *Refusing worker entitled to wages + benefits for refusal time + may be temporarily assigned to alternative work *Employer can assign another worker to do the work if it gives the worker notice of the refusal and reasons for it
Nova Scotia [OHS Act, Secs. 43 + 44]	Employee may refuse to do any act he/she has reasonable grounds for believing is likely to endanger his/her own or any other person's health or safety	<u>Employee may not refuse to work or use or operate a machine if:</u> <ul style="list-style-type: none"> *The refusal puts the life, health or safety of another person directly in danger; or *The danger is inherent to the employee's work 	<ul style="list-style-type: none"> *Employee reports refusal to supervisor *If employee unsatisfied with supervisor's response, can notify JHSC or health/safety rep + accompany the inspection *If employee still not satisfied, can report it to govt. OHS division *Division officer investigates, accompanied by employee, + issues whatever orders he/she considers necessary *Employee must return if Division investigator finds no danger or after remedial measures ordered by Division investigator are taken 	<ul style="list-style-type: none"> *Refusing employee entitled to wages + benefits for refusal time + may be temporarily assigned to alternative work *Employer can assign another employee to do the work if it gives employee notice of the refusal, reasons for refusal and employee's rights under OHS Act
Ontario, [OHS Act, Sec. 43]	<u>Workers may refuse work if reason to believe:</u> <ul style="list-style-type: none"> *Equipment, machine, device or thing the worker is to use or operate is likely to endanger them or another worker; *The physical condition of workplace is likely to endanger them; *Workplace violence is likely to endanger them; or *Equipment, machine, device or thing the worker is to use or operate or the physical condition of the workplace violates the OHS Act or regulations so as to endanger them or another worker 	<u>No refusal allowed if:</u> <ul style="list-style-type: none"> *Would directly endanger another person's life, health or safety; *The danger is inherent in work or a normal condition of worker's employment; *The worker is a police officer, firefighter, correctional officer; or *The worker is employed in operating a/an hospital, sanatorium, long-term care home, psychiatric institution, mental health centre, rehab facility, residential group home or facility for persons with behavioural or emotional problems or disabilities, ambulance service, first aid clinic or station, laboratory operated by the Crown, or laundry, food service, power plant or technical service or facility used in conjunction with an institution, facility or service 	<ul style="list-style-type: none"> *Worker reports refusal to supervisor or employer *Employer or supervisor investigates in presence of refusing worker + JHSC worker member, health/safety rep or an experienced, trained + knowledgeable worker selected by union or workers to represent them *If not satisfied with inspection, worker can notify MOL *MOL officer investigates + issues any orders he/she thinks necessary *Worker must return if MOL officer finds no danger or after remedial measures ordered by MOL officer are taken 	<ul style="list-style-type: none"> *Refusing worker must stay in safe place near workstation + be available to employer, supervisor or MOL until investigation ends *Refusing worker entitled to wages + benefits for refusal time *Employer can assign another worker to do the work if it gives the worker notice of the refusal and reasons for it in presence of JHSC worker member (preferably a certified member), health/safety rep or an experienced, trained + knowledgeable worker selected by union or workers to represent them
Prince Edward Island [OHS Act, Secs. 28 + 29]	Worker may refuse to do an act he/she has reasonable grounds for believing is likely to endanger his/her own or another worker's occupational health or safety	None specified	<ul style="list-style-type: none"> *Worker notifies supervisor of refusal *Supervisor investigates in worker's presence + either fixes problem or finds no danger *If not satisfied, worker may notify JHSC or health/safety rep *JHSC or health/safety rep investigate + either fixes problem or finds no danger *If not satisfied, worker may notify govt. OHS officer *OHS officer investigates + issues any orders he/she believes necessary *Worker must return if OHS officer finds no danger or after remedial measures ordered by OHS officer are taken 	<ul style="list-style-type: none"> *Worker must be at workplace during regular hours while investigations taking place *Worker entitled to wages + benefits for refusal time unless refusal is frivolous *Worker may be temporarily assigned to alternative work *Employer can assign another worker to do the work if it gives the worker notice of the refusal and his/her OHS rights
Quebec [OHS Act, Secs. 12 + 13]	Worker may refuse to perform work he/she has reasonable grounds to believe would expose his/her own or another person's health, safety or physical well-being to danger	<u>Refusal not allowed if:</u> <ul style="list-style-type: none"> *It puts the life, health, safety or physical well-being of another person in immediate danger; or *The conditions under which the work is to be performed are ordinary conditions in worker's kind of work 	<ul style="list-style-type: none"> *Worker notifies supervisor or other employer rep. of refusal *Supervisor or rep. convokes safety rep. to decide what, if any, corrective action to take *If situation not resolved, worker, worker's rep or employer may call in CNEST *CNEST must respond within 6 hours if refusal stops at least 2 other workers from working *CNEST officer investigates + issues any orders he/she believes necessary *Worker must return if CNEST finds no danger or after remedial measures ordered by CNEST are taken 	<ul style="list-style-type: none"> *Employer may require worker to be at workplace while investigations taking place *Worker entitled to wages + benefits for refusal time *Worker may be temporarily assigned to alternative work *Employer can assign another worker to do the work if it gives the worker notice of the refusal and reasons for it
Sask. [Sask. Employment Act, Secs. 3-31 to 3-34]	Worker may refuse to perform any act(s) he/she has reasonable grounds to believe is/are unusually dangerous to his/her own or any other person's health or safety	None specified	<ul style="list-style-type: none"> *JHSC must investigate refusal + either fix problem or determine no danger *If there's no JHSC or the worker or employer isn't satisfied with the results of the JHSC investigation, either party can notify govt. OHS officer *Govt. OHS officer must investigate + issue any orders he/she believes are necessary *Worker must return if OHS officer finds no danger or after remedial measures ordered by OHS officer are taken 	<ul style="list-style-type: none"> Employer can assign another worker to do the work if it gives the worker written notice of the refusal, the reasons for it + the fact that the worker also has the right to refuse under Sec. 3-31 of the Sask. Emp. Act
NWT & Nunavut [Safety Act, Sec. 13]	<u>Worker may refuse to work if has reason to believe that:</u> <ul style="list-style-type: none"> *There's an unusual danger to his/her health or safety; *Doing the work is likely to create an unusual danger to worker's or another person's health or safety; or *Operation of a tool, appliance, machine, device or thing is likely to create an unusual danger to worker's or another person's health or safety 	<u>Danger must be "unusual", defined as one:</u> <ul style="list-style-type: none"> *That doesn't normally exist in that work; or *Under which a person engaged in that work wouldn't normally carry out his/her work 	<ul style="list-style-type: none"> *Worker notifies supervisor or employer of refusal *Supervisor or employer investigates + takes steps to correct in presence of worker + a union rep or another worker selected by workers *Supervisor or employer notifies worker of results of investigation + corrective steps *If not satisfied, worker may continue refusal + notify JHSC or, if no JHSC, Chief Safety Officer delegate *JHSC or Chief Safety Officer investigates + either orders corrective actions or finds no unusual danger *Worker must return if no unusual danger is found or after corrective measures ordered by Chief Safety Officer or JHSC are taken 	<ul style="list-style-type: none"> *Worker must be at workplace during regular hours while investigations taking place *Worker entitled to wages + benefits for refusal time *Worker may be temporarily assigned to alternative work
Yukon [OHS Act, Secs. 15 to 17]	<u>Worker may refuse work if he/she has reason to believe that:</u> <ul style="list-style-type: none"> *The use or operation of a machine, device or thing constitutes an undue hazard to himself/herself or any other person; or *A condition in the workplace constitutes an undue hazard 	<u>Refusal not allowed if:</u> <ul style="list-style-type: none"> *It puts the life, health, safety or physical well-being of another person in immediate danger; or *The conditions under which the work is to be performed are ordinary conditions in that kind of work 	<ul style="list-style-type: none"> *Worker notifies supervisor or employer of refusal *Supervisor or employer investigates + takes steps to correct in presence of JHSC, health/safety rep or another worker selected by workers *Supervisor or employer notifies worker of results of investigation + corrective steps *If not satisfied, worker notifies employer or supervisor that he/she is continuing refusal + employer or supervisor must notify govt. OHS officer *Govt. OHS officer investigates + either orders corrective actions or finds no unusual danger *Worker must return if no unusual danger is found or after corrective measures ordered by OHS officer are taken 	<ul style="list-style-type: none"> *Worker must be at workplace during regular hours while investigations taking place *Worker entitled to wages + benefits for refusal time *Worker may be temporarily assigned to alternative work *Employer can assign another worker to do the work if it gives the worker notice of the refusal + reason for it