

# New OHS Regulations Require Free Menstruation Products at Federally Regulated Workplaces



OHS laws require employers to provide workers clean, sanitary and suitably supplied toilets and washing facilities. Nobody needs to explain why these rules exist. However, what may need explaining is why the people who created rules requiring employers to maintain adequate supplies of running water, soap and toilet paper don't say anything about tampons, menstrual pads and other female sanitation products. After all, an estimated 35% of Canadian workers use these products on a regular basis. Studies also show that lack of access to such products often results in female workers choosing to skip work during their period.

## Free Menstrual Product Laws

Female students face the same problem. In recognition of this, BC and Nova Scotia have enacted laws requiring that free menstrual products be provided in all schools in the province. Now the concept is starting to catch on for workplaces. On October 15, 2022, the federal government published proposed new OHS regulations that would require employers to provide clean and hygienic tampons and menstrual pads in each toilet room, regardless of its marked gender, as well as a covered container for disposal of menstrual products in each toilet compartment. If it's not feasible to do this due to the nature of the workplace, (such as at a site that's non-traditional, mobile or remote) employers would have to provide the menstrual products in another location that's accessible to all workers and provides a 'reasonable' amount of privacy. The regulations officially took effect on April 15, 2023.

In addition, a few provinces have tabled or are considering tabling legislation making free menstrual products mandatory at workplaces. However, because these have all been Private Member rather than Government bills, none of them have yet passed. But that's likely to change, especially in Quebec where the government has adopted a 5-year workplace equity strategic plan that includes free workplace menstrual product mandates.

# The Current State of Free Workplace Menstrual Products Laws across Canada

**Federal Jurisdiction:** *OHS Menstrual Products Regulations* requiring employers to provide free menstrual products in toilet rooms took effect on April 15, 2023.

## Alberta

Employers must ensure that workplace toilet facilities have a covered disposal container for feminine hygiene products near each women's toilet but aren't required to actually supply those products (*OHS Code*, Section 360(c)).

## British Columbia

Where washroom facilities are required, employers must ensure they're equipped with 'the supplies necessary for their use' (*OHS Regulations*, Section 4.85(c)). While the argument could be made that menstrual products are 'supplies necessary' for the use of washroom facilities, mandatory free menstrual products will require express legislation or regulation.

## Manitoba

Employers must ensure that each toilet used by women at a workplace is supplied with a covered disposal container for feminine hygiene products but aren't required to actually supply those products (*WSH Regulations*, Section 4.8(3)(e)(iii)).

## New Brunswick

The OHS regulations require employers to ensure that a toilet facility is provided with a sufficient supply of toilet paper and 'hygiene supplies' but don't provide a definition of 'hygiene supplies' (*OHS Gen. Reg.*, Section 5(7)(e)).

## Newfoundland

Employers must provide only an adequate supply of toilet tissue and easily cleanable covered receptacles for waste materials (*OHS Regs.*, Section 61).

## Nova Scotia

OHS regulations don't say anything about menstrual products. In November 2021, the Nova Scotia Assembly tabled but didn't pass Private Member Bill 70, which would have added a new rule to the *OHS Act* requiring employers to provide free 'menstrual products' and disposal containers in workplace toilet facilities.

## Ontario

Effective July 1, 2023, employers at construction project sites and mines must ensure that toilet and washroom facilities intended for use by female workers have a disposal receptacle for sanitary napkins but don't have to provide those products.

## **Prince Edward Island**

Where toilets are required, employers need provide only toilet tissue and washable covered receptacles for waste (*OHS Act General Regs.*, Section 2.6).

## **Qu<sup>é</sup>bec**

Employer must ensure that toilets required at construction sites have adequate toilet paper (*Safety Code for Const. Industry*, Section 3.2.8.1). However, increasing access to disposable and reusable menstrual products in the workplace is among the initiatives included in the new 5-year strategy for achieving equality between men and women that Qu<sup>é</sup>bec launched in June 2022.

## **Saskatchewan**

An employer, contractor or owner must ensure that each toilet facility required by the OHS regulations is supplied with toilet tissue and easily cleanable, covered receptacles for waste materials (*OHS Regs.*, Section 6-8(7)(d))

## **Northwest Territories & Nunavut**

An employer must ensure that each toilet facility required by the OHS regulations is supplied with toilet tissue and easily cleanable, covered receptacles for waste materials (*OHS Regs.*, Section 75(6)(d))

## **Yukon**

Workers must be provided with sufficient clean sanitary toilet facilities, taking into account the nature of the work, number of workers and gender of the workers (*WSCA Regs.*, Section 1.71).