

# Top 6 OHS Compliance Challenges for 2022



If you thought 2021 was a tough year, just wait until you see what 2022 has in store. In addition to the perennial difficulties that come with running an OHS program, the new year will pose new compliance challenges testing even the most seasoned OHS coordinators. And it's not just the pandemic; new laws and unfolding long-term trends will demand novel approaches and solutions. Here's a quick overview of the top 10 new OHS compliance challenges for 2022.

## 1. Permanent Workplace Infection Control Measures

What a difference a year makes. Last year at this time, the new vaccines were out and it looked like the COVID-19 mess was finally coming to an end. This January cases are surging to record levels and workplaces are once more closing down like they did when the pandemic first began. Sooner or later, the curve will flatten and some semblance of normalcy will be restored. At the same time, there's increasing concern that COVID-19 may never completely go away.

**Compliance Strategy:** The infection control measures you implemented in response to the pandemic must become a permanent and continuing part of your OHS program targeting not just coronavirus but other infectious illnesses, including those that may cause future pandemics. Specifically, you must implement an exposure control program providing for, at a

minimum, hazard assessment, workplace ventilation, face masks and social distancing, testing and/or mandatory vaccination and extra sanitation measures.

## **2. Ensuring a Psychologically Safe Workplace**

In 2008, Ontario adopted a law (Bill 168) extending the OHS duty to prevent workplace violence to harassment. Among other things, it required employers to impose harassment policies, as well as incident reporting and investigation procedures. Federal Bill C-65, which took effect on Jan. 1, 2021, improved the model with new requirements for impartial investigation, mediation and dispute resolution, stronger privacy protections and other rights to ensure harassment victims get justice from their employer. Similar requirements have also taken effect in New Brunswick, Prince Edward Island, Saskatchewan, Quebec and all 3 territories. And it's only a matter of time until the remaining jurisdictions do the same.

**Compliance Strategy:** If you haven't modified your workplace violence and harassment policies recently, they may be out of date. What's needed is a broader approach—one with the objective of achieving not just violence- and harassment-free but [psychologically safe workplace](#)—along with fair, balanced and transparent mechanisms for [investigation](#), dispute resolution and victim support.

## **3. Helping Workers Deal with Mental Health Problems**

Psychological safety is just one aspect of the larger need to address workers' mental health. In any given week, at least 500,000 Canadians are unable to work due to mental health problems. And those numbers come from a study performed **before** the pandemic. Workers who are stressed out are more vulnerable to work accidents and injuries. In addition, mental stress is

now recognized as a 'compensable,' that is, covered work-related injury under workers comp in certain circumstances.

**Compliance Strategy:** Work with your HR director to implement proactive measures to deal with stress and [safeguard workers' mental health](#). Solutions range from implementing an organizational Employee Assistance Program (EAP), or confidential professional counselling service paid by the employer to help staff manage mental health, personal, family or marital difficulties that may affect their work, to simply understanding the visible warning signs of stress and how to appropriately reach out to workers who display them.

## 4. Protecting Workers who Work from Home

What many employers originally envisioned as a temporary COVID-19 expedient, telecommuting is looking more and more like a permanent feature of the modern workplace. In most jurisdictions, the OHS duty to protect workers in the 'workplace' includes workers who do their jobs from home and other remote locations. Moreover, injuries and illnesses suffered at home are deemed work-related under workers comp to the extent they occur while the worker is performing job duties.

**Compliance Strategy:** Be aware of the [OHS requirements of your own jurisdiction](#) and, if necessary, implement specific [inspection and other health and safety protocols and policies](#) to protect telecommuters.

## 5. Combatting Workplace Substance Abuse & Impairment

Impairment at work is just as illegal today as it was before Canada legalized recreational marijuana 3 years ago. But as drug use has grown, keeping workers sober at work has become an increasingly difficult challenge, especially during times of pandemic.

**Compliance Strategy:** A non-disciplinary [fitness for duty](#) approach coupled with voluntary self-disclosure has proven far more effective, at least in terms of enforceability, than a zero-tolerance policy. The other key piece is to implement legally sound [drug and alcohol testing policies](#) to enforce fitness for duty rules.

## 6. Complying with New Provincial OHS Laws

As usual, OHS coordinators will also have to be aware of the new laws that took effect in their own jurisdiction in the past year. Key items that should be on the radar screen include new OHS laws include:

- Newly harmonized requirements for first aid training, first aid kits and first aid supplies: all jurisdictions;
- New workplace harassment protections: FED, NB, NL, PEI, QC, SK, NT, NU, YK;
- Revised rules for OHS incident reporting: AB and ON;
- Changes to work refusal rules and procedures: AB, BC;
- New radiation safety requirements: FED, AB, NL, SK; and
- Revised Notice of Project requirements for construction projects: ON.