

Contextual Information

Occupational Health and Safety Act (OHS Act)

Filming Activities in Yukon

The following general information is intended to assist broadcasters and production companies to understand their obligations under the Yukon Occupational Health and Safety Act (OHS Act). This information is provided in summary form as a convenience only and does not override the provisions of the OHS Act, regulations, or the policies of the Yukon Workers Compensation Health and Safety Board.

The information materials and opinions contained in this document are provided for general information purposes only, are not intended to constitute legal or other professional advice and should not be relied on or treated as a substitute for specific advice relevant to particular circumstances.

The OHS Act applies to and in respect of employment on or in connection with the operation of any work, undertaking, or business in the Yukon.

Employers, Constructors, Owners, Suppliers, Supervisors and Employees all have obligations to ensure that the workplace, machinery, equipment, and processes used are safe and without risks to health. This includes the obligation to ensure compliance with the OHSA and regulations at all times



Employer's Duties

Under section 3 of the OHS Act, every employer must ensure the following:

Employer's duties

- 3(1) Every employer shall ensure, so far as is reasonably practicable, that
- The workplace, machinery, equipment, and processes under the employer's control are safe and without risks to health;
 - Work techniques and procedures are adopted and used that will prevent or reduce the risk of occupational illness and injury; and
 - Workers are given necessary instruction and training and are adequately supervised, taking into account the nature of the work and the abilities of the workers.

In addition, there are circumstances where two or more employers overlap work areas and section 5 outlines the following:

Joint Duties of Employers

5 If there is an overlapping of the work areas of two or more employers, the principal contractor or, if there is no principal contractor, the owner of the project shall establish and ensure the continuing function of a management group to coordinate the accident prevention activities of the several employers, and each employer shall be represented in and shall cooperate with the management group.

In the case of overlapping areas, the employers have a responsibility to establish a joint management group to coordinate the accident prevent activities of all employers. This would include conducting hazard assessments and establishing safety orientation and training requirements for the employees of both employers at the workplace.

All activities, plans and training should be documented and each party should sign that they understand and will abide by the documents/plans/ training requirements (procedures).

Example: Where a broadcaster or production company is filming the mining activities of a mining company/ organization on the mining company's property, the broadcaster or production company is responsible as an employer of its employees for the health and safety of its activities and the activities of those employees. The mining company is both an owner of the project and an employer of its employees, with responsibility for the health and safety

of its employees. However, given that two employers are both on the same workplace, there are additional joint duties of both employers for the health and safety of all workers present at the workplace. Both employers are obligated to be represented and cooperate with the management group established by the project owner to coordinate accident prevention activities.

Owner's Duties

Under Section 6, an employer that sets up and maintains a film set on any land, whether the land on which the film set is established is owned, rented, leased, occupied, or used as a workplace, by the employer is considered an "owner" of the work area under the OHS Act. The Owner is responsible to ensure the work area where the film set is complies with the OHS Act and regulations.

Owner's Duties

- 6(1) The owner of a workplace that is not a project shall ensure, so far as is reasonably practicable, that;
- the prescribed facilities are provided and maintained;
 - the workplace complies with the regulations; and
 - no workplace is constructed, developed, reconstructed, altered, or added to except in compliance with this Act and the regulations.
- (2) An employer, owner, or constructor engaged in any construction, development, alteration, addition or installation to or in a workplace shall, when drawings are required for the construction, keep a copy of the drawings in a convenient location at or near the workplace, and those drawings shall be produced immediately by the employer, owner, or contractor on the request of a safety officer for examination and inspection.

Supervisor's Duties

Under Section 7, an employee or manager of a broadcaster or production company with supervisory duties is responsible for the proper instruction of the workers under his or her direction and control.

Supervisor's Duties

- 7 A supervisor shall be responsible for:
- the proper instruction of workers under his direction and control and for ensuring that their work is performed without undue risk,
 - ensuring that a worker uses or wears the equipment, protective devices, or clothing required under this Act or by the nature of the work,
 - advising a worker of the existence of any potential or

- actual danger to the health or safety of the worker of which the supervisor is aware, and
- (d) if so prescribed, providing a worker with written instructions as to the measures and procedures to be taken for the protection of the worker.

In addition, there is a duty under section 9 for persons in a supervisory position to recognize, correct and/or report situations that present a hazard. Where a supervisor or manager can demonstrate observed situations are not covered by the safety orientation and training requirements determined for them by the management group, they may not be at risk of being fined or charged with an offence. This duty is reflected in the administrative penalties outlined in Yukon Workers Compensation Health and Safety Board's Zero Tolerance initiative.

Employee's Duties

It is important to highlight that all workers also have a duty to ensure that they take all necessary precautions to ensure their own health and safety and that of any other person in the workplace. This includes the duty to comply with all health and safety procedures, report any accident or injury that arises in the course of their work, and report situations to their supervisor. Where an employee can demonstrate observed situations are not covered by the safety orientation and training requirements determined for them by the management group, they may not be at risk of being fined or charged with an offence.

Employee's Duties

9 Every worker shall, so far as is reasonably practicable, in the course of their employment:

- (a) take all necessary precautions to ensure their own health and safety and that of any other person in the workplace;

Employers, owners, constructors, supervisor and employees are all subject to the provisions of the OHS Act and in the event of non-compliance could risk being subject to safety officer orders, prosecution in territorial court and/or administrative penalties in accordance with the legislation.

Information on administrative penalties for non-compliance is outlined in the Zero Tolerance initiative available from Yukon Workers Compensation Health and Safety Board. Information on enforcement provisions of the OHS Act for administrative penalties and prosecution are set out in sections 44 through 47.

Example 1: A film crew is working on a film set at a mining operation where the miner and film crew's safety training included instruction to wear hard hats on the mining property. A member of the film crew has observed a miner not wearing a hard hat.

In this situation:

- The miner may be fined for a safety infraction—not wearing hard hat or charged with an offence in territorial court.
- If the film crew member fails to either correct or report the safety infraction to an appropriate supervisor, the film crew member may be fined.

- If multiple film crew members and/or mine workers observe the safety infraction, any or all of them may be fined if they fail to either correct the situation or report it to an appropriate supervisor. If a supervisor is made aware of an infraction they must deal with it appropriately and document the outcome.
- If the offending party ignores the counsel/direction from a supervisor the supervisor must report to the infraction the other parties' supervisor and their next level of management.
- If a supervisor from either the film company or the mining company observes the infraction and fails to either correct or report it, they may be fined, potentially at a higher level.
- If supervision or management can demonstrate they have addressed a situation through training records and documentation of corrective measures, they may not be at risk of being fined or charged with an offence (this would apply during a first offence).

Example 2: A miner works for a mine that has an active film crew filming some of its operations. Miner and film crew safety training includes instruction on off-limits areas. The miner notices that a film crew member is filming from an area that is marked off-limits.

In this situation:

- The film crew member may be fined for a safety infraction—filming in an area restricted for safety reasons or charged with an offence in territorial court.
- If the miner fails to either correct or report the safety infraction to an appropriate supervisor, the miner may be fined or charged with an offence.
- If multiple miners and/or film crew members observe the safety infraction, any or all of them may be fined if they fail to either correct or report it to an appropriate supervisor. If a supervisor is made aware of an infraction they must deal with it appropriately and document the outcome.
- If the offending party ignores the counsel/direction from a supervisor the supervisor must report to the infraction the other parties' supervisor and their next level of management.
- If a supervisor from either the mining company or the film company observes the infraction and fails to either correct or report it, they may be fined, potentially at a higher level.
- If supervision or management can demonstrate they have addressed a situation through training records and documentation of corrective measures, they may not be at risk of being fined or charged with an offence (this would apply during a first offence).

These examples are not legal opinions. Each situation should be examined based on the specific facts. Readers should not act on the basis of these examples without first consulting a professional such as a lawyer or calling Occupational Health and Safety for an analysis on a specific matter.

For additional information, please contact

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