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provide any information in the manner and within the time period that the director may specify. S.M. 2002, c. 33, s. 38. Order to conduct tests 46.1(1) The director may, by order, require an employer to do the following at the employer's expense: (a) have tests conducted by a person who has the professional knowledge, experience or qualifications specified by the director; (b) give the director a report or assessment prepared by that person; and to do so in the manner and within the time period specified in the order. Service of order 46.1(2) The order must be served on the employer personally or be sent by registered mail to the employer's last known address. S.M. 2002, c. 33, s. 38. 47 [Repealed] S.M. 2002, c. 33, s. 39. Confidential information 48(1) No person shall disclose any information with respect to any manufacturing or trade secret obtained by him by virtue of the exercise of any power conferred by this Act, except for the purpose of administering this Act and the regulations, or as required by law. Names to remain confidential 48(2) No person by whom information is obtained in confidence by virtue of any power conferred by this Act shall divulge the name of the informant to any person except for the purposes of this Act or the regulations. Exemption from liability 49(1) No action lies or shall be instituted against any person whether in his public or private capacity, where the person is acting under the authority of this Act or the regulations for any loss or damage suffered by any person by reason of anything done or omitted to be done by him in good faith, in the exercise of the powers given to him by this Act or the regulations. No exemption in case of negligence 49(2) Subsection (1) does not apply where the person exercising any of the powers given to him under this Act or the regulations is negligent in the performance thereof. Officials cannot be compelled to testify 49.1 A safety and health officer, a person assisting a safety and health officer, the chief occupational medical officer, the director, or any other person acting under the authority of this Act or the regulations, is not a compellable witness in a civil action or proceeding — other than an inquest or inquiry under The Fatality Inquiries Act — respecting any document, information, or test obtained, received or made under this Act or the regulations, and may not be compelled to produce any such document. S.M. 2002, c. 33, s. 40. Medical examinations and health surveillance 50(1) The chief occupational medical officer may carry out, or may arrange for another physician or other qualified person to carry out, any medical examinations or health surveillance of workers or former workers as he or she considers desirable for the purpose of administering this Act and the regulations. But no medical examination of a worker may be carried out without the worker's consent. Examinations during working hours 50(2) Medical examinations shall, wherever reasonably practicable, be conducted during working hours without loss in pay to the worker being examined and the employer shall, if required by the physician or other qualified person, provide suitable accommodation for such examinations at the workplace, and otherwise facilitate the conduct of those examinations. Health surveillance 50(3) Health surveillance during working hours must be conducted without loss of pay to the workers who participate. In addition, the employer shall facilitate and provide suitable accommodation at the workplace for health surveillance, if required to do so by the chief occupational medical officer or a physician or other qualified person. S.M. 2002, c. 33, s. 41. Reports 51(1) Every physician or other qualified person attending or consulted respecting a person who, (a) became ill or injured while employed at a workplace or while being otherwise engaged as a worker; or (b) who has been examined pursuant to section 50; shall furnish to the chief occupational medical officer upon request of the officer such reports concerning the condition of the person as the chief occupational medical officer may require for the purposes of this Act and the regulations. Reports by hospitals 51(2) Notwithstanding the provisions of any other Act, where a worker referred to in clause (1)(a) or (b) is, or has been, a patient in a hospital, the person in charge of the administrative affairs of that hospital shall furnish without charge to the chief occupational medical officer upon request such reports concerning the condition of the person as the chief occupational medical officer may require for the purposes of this Act and the regulations. Information confidential 51(3) Unless disclosed in a form calculated to prevent the information from being identified as relating to a particular person or case or unless disclosed as required by law, any information obtained by the chief occupational medical officer pursuant to section 50 and this section shall not be disclosed without the consent of the person examined or attended. Power to require alternative work 52 Where it appears to the director upon the advice of the chief occupational medical officer that a worker has been over-exposed to a harmful substance and that a temporary removal from the hazard will enable the worker to resume his usual work, the director may by order require the employer to provide without loss of pay to the worker temporary alternative work which in the opinion of the director is suitable, for such period of time as the director may specify. Requirement of occupational health service 53(1) The minister may designate a workplace, or a class of workplaces, as requiring an occupational health service, having regard to the type of work being carried on therein, the number of workers employed thereat, and the degree or uncertainty of hazard thereof; and upon such designation, the employer shall cause an occupational health service to be established and maintained for the workplace in accordance with this section. Minister may specify health services to be provided 53(2) The minister may specify the services that are to be provided by the occupational health service for any workplace, or for any class of workplaces designated under subsection (1). Continued operation of health service 53(3) The establishment and continued operation of an occupational health service is subject to the approval of the minister. ADMINISTRATIVE PENALTIES Administrative penalty 53.1(1) If a person (a) has failed to comply with (i) an improvement order within the period specified in the order, or (ii) a prescribed provision of this Act or the regulations, and a safety and health officer is of the opinion that the failure involves, or is likely to involve, an imminent risk of serious physical or health injury to a worker or other person; (b) has failed to maintain compliance with an improvement order after initially complying with it; (c) has resumed an activity that previously was the subject of a stop work order which was discontinued because the person had complied with it; or (d) was ordered to take action under section 42.1 because the person took a reprisal against a worker; the officer shall provide evidence of the matter to the director. Imposing a penalty 53.1(2) When the director determines that a person (a) has failed to comply with (i) an improvement order within the period specified in the order, or (ii) a prescribed provision of this Act or the regulations, and the director is of the opinion that the failure involves, or is likely to involve, an imminent risk of serious physical or health injury to a worker or other person; (b) has failed to maintain compliance with an improvement order after initially complying with it; (c) has resumed an activity that previously was the subject of a stop work order but was discontinued because the person had complied with it; or (d) was ordered to take action under section 42.1 because the person took a reprisal against a worker; the director may issue a notice in writing requiring the person to pay an administrative penalty in the amount set out in the notice. When penalty may be imposed 53.1(3) Notice of an administrative penalty may be issued only after any period for appealing the matter that gave rise to the notice under subsection (2) has expired or, if an appeal has been filed, after a decision has been made on appeal. Maximum amount 53.1(4) An administrative penalty may not exceed \$5,000. Notice 53.1(5) A notice of administrative penalty must set out (a) the amount of the penalty determined in accordance with the regulations; (b) when and how the penalty must be paid; and (c) a statement that the person may appeal the matter to the board within 14 days after being served with the notice. Serving the notice 53.1(6) A notice of administrative penalty must be served on the person required to pay the penalty. The notice may be served personally or may be sent by registered mail to the person's last known address. Appeal to the board 53.1(7) Within 14 days after being served with a notice, the person required to pay the administrative penalty may appeal the matter to the board by sending the board a notice of the appeal together with reasons for the appeal. The requirement to pay the penalty is stayed until the board decides the matter. Notice of hearing 53.1(8) On receiving a notice of appeal, the board shall (a) fix a date, time and place for hearing the appeal; and (b) give the person appealing, and the director, written notice of the hearing at least five days before the hearing date. Decision of the board 53.1(9) After hearing the appeal, the board shall decide the matter and (a) confirm or revoke the administrative penalty; or (b) vary the amount of the penalty if the board considers that it was not established in accordance with the regulations. Payment 53.1(10) Subject to an appeal under subsection (7), a person named in a notice of administrative penalty shall pay the amount of the penalty within 30 days after the notice is served. The government must use the amounts paid for the purpose of educating the public on matters relating to workplace safety and health. Debt due to the government 53.1(11) If an administrative penalty is not paid within 30 days after notice of the penalty is served, or if the penalty is appealed to the board, within 30 days after the board's decision, the amount of the penalty is a debt due to the government. Certificate registered in court 53.1(12) The director may certify a debt referred to in subsection (11), or any part of such a debt that has not been paid. The certificate may be registered in the Court of Queen's Bench and, once registered, may be enforced as if it were a judgment of the Court. No offence to be charged if penalty is paid 53.1(13) A person who pays an administrative penalty under this section may not be charged with an offence in respect of the matter that gave rise to the issuance of the notice of administrative penalty unless the matter continues after the penalty is paid. Lien for debt 53.1(14) The government has, in addition to any other remedy it has for the recovery of a debt arising under this section, a lien and charge on every estate or interest in real property and personal property of the person required to pay the debt (referred to in this section as the "debtor"), including property acquired by the debtor after the debt arose. Extent of security 53.1(15) The lien secures the payment of (a) the amount of the debt when the lien takes effect; (b) interest on the debt from the time the debt arose until it is paid in full, as determined under The Financial Administration Act and the regulations under that Act; and (c) costs reasonably incurred by the director (i) for the registration and discharge of the lien, and (ii) in retaking, holding, repairing, processing, preparing for disposition or disposing of property in respect of which the lien is registered. When lien takes effect 53.1(16) The lien takes effect (a) in relation to the debtor's interest in real property, when a certificate in respect of the lien is registered against specific lands of the debtor; and (b) in relation to the debtor's personal property, when a financing statement in respect of the lien is registered in the Personal Property Registry. Registration and enforcement of lien 53.1(17) Subsections 28(6) to (14) of The Pension Benefits Act apply, with necessary changes, to the registration and enforcement of a lien arising under this section as if (a) the references in those provisions to "employer" were references to the debtor under this section; and (b) the references in those provisions to "the superintendent" were references to the director under this Act. S.M. 2002, c. 33, s. 42; S.M. 2013, c. 9, s. 25; S.M. 2021, c. 16, s. 11. OFFENCES AND PENALTIES Offences 54 Every person who (a) contravenes this Act or the regulations; (b) fails to comply with an order made under this Act or the regulations; (c) knowingly obstructs or makes a false statement to a safety and health officer engaged in the exercise or performance of his or her powers or duties; or (d) knowingly makes or causes to be made a false entry in any register, book, notice or other document to be kept by him under the Act or the regulations, or deletes or destroys or causes to be deleted or destroyed any true or proper entry in any such document; is guilty of an offence and is liable on summary conviction to the penalties set out in section 55. S.M. 2002, c. 33, s. 44. Penalty 55(1) A person guilty of an offence is liable (a) for a first offence to a fine of not more than \$500,000 and, in the case of a continuing offence to a further fine not exceeding \$50,000 for each day during which the offence continues; and (b) for a second or subsequent offence to a fine of not more than \$1,000,000 and, in the case of a continuing offence to a further fine not exceeding \$100,000 for each day during which the offence continues. 55(2) [Repealed] S.M. 2002, c. 33, s. 45. Additional penalty 55(3) Where a person is convicted for an offence under this Act, in addition to the penalties set out in subsection (1), he may be imprisoned for a term not exceeding six months. Further penalty 55(4) If a person is convicted of an offence for a contravention of subsection 43.3(1), he or she shall not work in a supervisory capacity at any workplace for a six month period after the date of conviction. Time limit for prosecution 55(5) A prosecution under this Act may be commenced not later than two years after the day the alleged offence was committed. S.M. 1997, c. 32, s. 2; S.M. 2002, c. 33, s. 45; S.M. 2010, c. 3, s. 2; S.M. 2021, c. 16, s. 12. Additional penalties 55.1(1) When a person is convicted of an offence under this Act, the court may, having regard to the nature of the offence and the circumstances surrounding its commission, order the offender to pay to the minister an amount that the government must use for the purpose of educating the public on matters relating to workplace safety and health. Such a penalty may be required in addition to any other penalty that may be imposed under this Act. Limit 55.1(2) The total of (a) any additional amount required to be paid under subsection (1); and (b) any penalty required to be paid under section 55; must not exceed the amount of the maximum penalty for which the offender could be liable under section 55. Unpaid additional penalties 55.1(3) If an amount is ordered to be paid under subsection (1), the director may file the order in the Court of Queen's Bench, and on being filed the order may be enforced in the same manner and to the same extent as a judgment of that court. S.M. 2002, c. 33, s. 45; S.M. 2021, c. 16, s. 13. Offences by directors, etc., of corporations 56 Where a corporation commits an offence under this Act, any officer, director or agent of the corporation, who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is a party to and guilty of the offence and liable, on summary conviction, to the penalty provided for the offence. Onus 57(1) In any proceedings for an offence under any of the provisions of this Act or regulations consisting of a failure to comply with a duty or requirement to do something so far as is practicable or so far as is reasonably practicable, or to use the best practicable means to do something, it shall be for the accused to prove that it was not practicable or not reasonably practicable to do more than was in fact done to satisfy the duty or requirement, or that there was no better practicable means than was in fact used to satisfy the duty or requirement. Person deemed to be employer 57(2) Where a person is charged as an employer in respect of an offence under this Act he shall be deemed to be an employer within the meaning of this Act unless it is otherwise proven. Application of subsection (1) 57(3) Subsection (1) applies with such modifications as the circumstances require to any appeal involving an improvement order or a stop work order. S.M. 2002, c. 33, s. 46. Laying of information 58 Any person may lay an information in respect of any offence or alleged offence against this Act or the regulations. 59 [Repealed] S.M. 2002, c. 33, s. 47.

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