

## RIGHT TO REFUSE DANGEROUS WORK

### Right to refuse dangerous work

43(1) Subject to this section, a worker may refuse to work or do particular work at a workplace if he or she believes on reasonable grounds that the work constitutes a danger to his or her safety or health or to the safety or health of another worker or another person.

### Reporting the refusal

43(2) A worker who refuses to work or do particular work under subsection (1) shall promptly report the refusal and the reasons for it to his or her employer or immediate supervisor, or to any other person in charge at the workplace.

### Inspecting the workplace

**43(3) If the employer does not remedy the dangerous condition immediately, the person who receives the report of refusal to work, or a person designated by that person, shall immediately inspect the workplace in the presence of the worker and one of the following persons:**

- (a) if there is a committee under section 40, the worker co-chairperson of the committee or, if that person is unavailable, a committee member who represents workers;
- (b) if there is a representative designated under section 41, that representative or, if he or she is unavailable, another worker selected by the worker refusing to do the work;
- (c) if there is no committee or representative, another worker selected by the worker who is refusing to work.

### Remedial action

43(4) The person required to inspect the workplace shall take any action necessary to remedy any dangerous condition, or ensure that such action is taken.

### Worker may continue to refuse

43(5) Until the dangerous condition is remedied, the worker who reported it may continue to refuse to work or do particular work.



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### **Other workers not to be assigned**

43(6) When a worker has refused to work or do particular work under subsection (1), the employer shall not request or assign another worker to do the work unless the other worker has been advised by the first worker, or by a safety and health officer, of the first worker's refusal and the reasons for it.

S.M. 2002, c. 33, s. 34.

### **Report of dangerous condition to an officer**

43.1(1) If the dangerous condition is not remedied after an inspection under subsection 43(3), any of the persons present during the inspection may notify a safety and health officer of the refusal to work and the reasons for it.

### **Investigation by officer**

43.1(2) On receiving a notice under subsection (1), the officer shall investigate the matter and decide whether the work the worker has refused to do constitutes a danger to the safety or health of the worker or any other worker or person at the workplace.

### **Order by officer**

43.1(3) If the officer decides that the work is dangerous, he or she shall

- (a) make a written report stating the officer's findings;
- (b) make any improvement order under section 26 or stop work order under section 36 that the officer considers necessary or advisable; and
- (c) give a copy of the report and any order to
  - (i) the worker who refused to do the work,
  - (ii) the employer, and
  - (iii) the co-chairpersons of the committee, or the representative.



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### **Decision not to issue an order**

43.1(4) If the officer decides that the work is not dangerous, he or she shall

(a) inform the employer and the worker of that decision; and

(b) inform the worker that he or she is no longer entitled to refuse to do the work.

S.M. 2002, c. 33, s. 34.

### **Worker entitled to be paid despite refusal**

43.2 If a worker has refused to work or do particular work under section 43,

(a) the worker is entitled to the same wages and benefits that he or she would have received had the worker continued to work; and

(b) the employer may re-assign the worker temporarily to alternate work.

S.M. 2002, c. 33, s. 34.

### **Employer not to make worker work in unsafe conditions**

43.3(1) When the employer at a workplace or his or her agent, or the supervisor or another person representing the employer at the workplace in a supervisory capacity, knows or ought to know of a condition at the workplace that is or is likely to be dangerous to the safety or health of a worker, he or she shall not require or permit any worker to do that work until the dangerous condition is remedied.

### **Employer may remedy dangerous condition**

43.3(2) Subject to subsection 43(5), nothing in subsection (1) prevents the doing of any work or thing at a workplace that may be necessary to remedy a condition that is or is likely to be dangerous to the safety or health of a worker.



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