

## Health and Safety Law for Construction Projects

### Role on a Construction Project

The Occupational Health and Safety Act defines a **constructor** (aka general contractor) as a person who undertakes a construction project for an **owner**. In some cases, the **owner** of the project is the **constructor** as well. When an **owner** undertakes all or part of a project, either by himself or herself, or by contracting work out to more than one **contractor or employer**, the **owner** becomes the **constructor**.

If the **owner** hires only one **contractor** to do all the work, then that contractor may be the **constructor**, depending on the contractual arrangements with the **owner**. The contractor may, in turn, subcontract work to other people, but he or she remains the **constructor** for the project, as long as he or she is the only party the owner had contracted to do the work.

Under the Act, a "**constructor**" (aka general contractor) is a party (a person or company) who oversees the construction of a project and who is **ultimately responsible for the health and safety of all workers**.

The **constructor** must ensure that all the **employers** (aka subcontractors) and **workers** on the project comply with the Act and Regulations. For further details on the constructor see our Constructor Guideline <https://www.labour.gov.on.ca/english/hs/pubs/constructor/index.php>

### What are the key duties of a constructor?

**Constructors** have the following key responsibilities, on the projects that they undertake:

- ensure that the measures and procedures prescribed by the Occupational Health and Safety Act and its regulations are carried out on the project,
- ensure that **every employer** and **every worker** performing work on the project complies with the Occupational Health and Safety Act and its regulations,
- ensure that the health and safety of **workers** on the project is protected,
- ensure that a health and safety representative or a joint health and safety committee is selected or established, when and as required,
- ensure that the **Ministry of Labour** is notified of a project, when and as required,
- ensure that the **Ministry of Labour** is notified of an accident or occurrence, when and as required,
- ensure that every **contractor** or **subcontractor** receives a list of all designated substances present at the project before the **prospective contractor or subcontractor** enters into a binding contract for the supply of work on the project,
- ensure that written emergency procedures are established for the project and posted, and
- appoint a **supervisor** for every project at which five or more **workers** will work at the same time.

### Notice of Project

**Constructors** are required to notify the Ministry of Labour **before construction begins** of any project meeting any of the requirements listed in the Construction Regulations. One of the requirements to file a Notice of Project applies to all renovation and construction workplaces where the materials & labour combined are \$50,000 or more, even for personal residences. **Not filing a notice when required is a chargeable offence**. The purpose of the notice is to identify to everyone who the **Constructor** is, in turn identifying who is in charge of the project and responsible to ensure that all health and safety regulations under The Occupational Health and Safety Act are being followed on the job site. A signed copy of the completed form must be posted in a conspicuous place at the project or be available at the project for review by an Inspector. **The form is FREE** and can be found and filed at <https://www.enop.labour.gov.on.ca/ENOPWeb/welcome.do?action=language&language=EN>

### Designated substances

Before beginning any work, the **owner** must first determine if there are any designated substances present at the project site. If there are, the **owner** must prepare a complete list. This list must be included as part of any tendering information on a project.

Before the **owner** can enter into a binding contract with a **constructor** to work on a site where there are designated substances, the owner must ensure that the constructor has a copy of the list.

An **owner** is liable to a **constructor** and **every contractor and subcontractor** who suffers any loss or damages as a result of the presence of designated substances that were not on the list. This liability does not apply if the owner could not reasonably have known about the presence of the designated substances.



## Resources & Links

Call Before You Dig – Ontario One Call <https://www.on1call.com/>

Canada Mortgage & Housing Corporation – CMHC <https://www.cmhc-schl.gc.ca/en/co/>

Consumer Beware List – Ministry of Consumer Services

<https://www.consumerbeware.mgs.gov.on.ca/catsct/start.do>

E-Laws – Ontario Provincial Legislation <https://www.ontario.ca/laws>

Electrical Safety Authority – ESA <https://www.esasafe.com/>

Employment Standards – Ministry of Labour <https://www.labour.gov.on.ca/english/es/>

Health and Safety – Ministry of Labour <https://www.labour.gov.on.ca/english/hs/index.php>

Hiring a Contractor – Get It In Writing Campaign

<http://www.chba.ca/CHBA/Renovating/Renovating.aspx>

HST & Construction Projects – Canada Revenue Agency <https://www.canada.ca/en/revenue-agency/services/tax/businesses/topics/gst-hst-businesses/gst-hst-home-construction.html>

Infrastructure Health & Safety Association – IHSA Safety Partner

[http://www.ihsa.ca/SmallBusiness/resources\\_small-businesses.aspx](http://www.ihsa.ca/SmallBusiness/resources_small-businesses.aspx)

Know Your Rights - Consumer Protection Ontario

<https://www.ontario.ca/page/your-rights-when-starting-home-renovations-or-repairs>

ONE Source for Business – Services for Business <https://www.ontario.ca/page/business-services>

Ontario College of Trades – OCOT <http://www.collegeoftrades.ca/>

Ontario Building Code – Municipal Affairs and Housing <http://www.mah.gov.on.ca/Page7393.aspx>

Ontario's Occupational Health and Safety System Partners

<https://www.labour.gov.on.ca/english/hs/websites.php>

Prevention Starts Here – Ontario

[https://www.labour.gov.on.ca/english/news/bg\\_cpo20111216.php](https://www.labour.gov.on.ca/english/news/bg_cpo20111216.php)

Service Ontario Centres – Services for Residents <https://www.services.gov.on.ca/sf/#/>

Tarion Warranty Corporation – Protecting New Home Buyers <https://www.tarion.com/>

Technical Standards & Safety Authority – TSSA <https://www.tssa.org/en/index.aspx>

Will You Do It For Cash – Canada Revenue Agency <https://www.canada.ca/en/revenue-agency/news/newsroom/tax-tips/tax-tips-2014/will-you-job-cash-s-risky-business.html>

Young Workers – It's Your Job <https://www.labour.gov.on.ca/english/atwork/youngworkers.php>

Workplace Safety Insurance Board – WSIB Safety Partner

[http://www.wsib.on.ca/WSIBPortal/faces/WSIBHomePage?\\_afLoop=2145181281083000&\\_afWindowMode=0&\\_afWindowId=null#%40%3F\\_afWindowId%3Dnull%26\\_afLoop%3D2145181281083000%26\\_afWindowMode%3D0%26\\_adf.ctrl-state%3D925vcx4x\\_4](http://www.wsib.on.ca/WSIBPortal/faces/WSIBHomePage?_afLoop=2145181281083000&_afWindowMode=0&_afWindowId=null#%40%3F_afWindowId%3Dnull%26_afLoop%3D2145181281083000%26_afWindowMode%3D0%26_adf.ctrl-state%3D925vcx4x_4)

Young Workers Zone – Canadian Centre for Health & Safety <http://www.ccohs.ca/youngworkers/>