

Conquering Compliance Challenges and Related Construction Case Law Review

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Compliance with Alberta Occupational Health and Safety Legislation: Refresh your knowledge of some of the laws set out in the Alberta *Occupational Health and Safety Act* and its Regulations (including the Adopted Code) that prescribe the obligations of prime contractors, and other parties working with prime contractors.

Avoiding More Serious Compliance Challenges Demonstrated by Recent Case Law: Refresh your knowledge of recent cases involving allegations of criminal negligence. Learn about the recent Supreme Court of Canada decision involving a construction fatality in *R v Greater Sudbury* and how that decision may or may not influence future interpretation of occupational health and safety law in Alberta.

Compliance Achievements:

1. **Legislation Evolves.** Alberta's occupational health and safety legislation has been amended significantly between 2018 and March 31, 2023, and some of those changes have involved the identification of a prime contractor, the duties of a prime contractor, and also the duties of other parties in relation to the prime contractor. It is a wise time to refresh our understanding of what has changed.
2. **Contracts, Policies and Procedures.** We need to take inventory of where your contracts, policies and procedures may need to be amended to reflect all of this legislative change. (Hint: You might be overdue.)
3. **Elevating Prime Contractor Performance.** When do other work site parties have obligations in relation to the prime contractor and how can a prime contractor meet its performance requirements?
4. **Case Law Can Help Guide Compliance Pitfalls.** Reflecting on prior convictions can help all work site parties from suffering compliance failures leading to tragic outcomes.

Takeaways:

Questions to ask:	
<ul style="list-style-type: none"> • What legally defined parties are in play at our work sites? (An employer, supervisor, worker, supplier, service provider, contracting employer, owner, prime contractor, temporary staffing agency?) • Do any of our work sites have a prime contractor by default or agreement? 	
Questions to ask site leaders:	Remember:
<ul style="list-style-type: none"> • Who is the prime contractor at our work site(s)? 	<ul style="list-style-type: none"> • The role now defaults to the person in control of the work site, not the owner of the work site.
<ul style="list-style-type: none"> • Are they aware of their obligations? 	<ul style="list-style-type: none"> • There are numerous duties for a work site prime contractor in Alberta, and they changed as recently as March 31, 2013. • Compliance with these duties is unlikely without a specific compliance framework.
<ul style="list-style-type: none"> • When were our contracts, policies, and procedures last updated, and do they reflect the current state of law? 	<ul style="list-style-type: none"> • Unless you have amended these records, if they contain prime contractor provisions, they may be outdated and legally inaccurate.
<ul style="list-style-type: none"> • When was the last time an audit was conducted for prime contractor compliance? 	<ul style="list-style-type: none"> • Auditing for COR purposes is focused on your health and safety management system, not specific legal compliance.