



# Advisory Circular

**Subject: Aviation Occupational Health and Safety Program**

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## 1.0 INTRODUCTION

- (1) This Advisory Circular (AC) is provided for information and guidance purposes. It describes an example of an acceptable means, but not the only means, of demonstrating compliance with regulations and standards. This AC on its own does not change, create, amend or permit deviations from regulatory requirements, nor does it establish minimum standards.

### 1.1 Purpose

- (1) The purpose of this AC is to inform air operators about the Transport Canada Civil Aviation (TCCA) - Aviation Occupational Health and Safety (AOHS) Program.

### 1.2 Applicability

- (1) This AC is applicable to air operators under federal labour jurisdiction and their employees. This information is also accessible to TCCA employees.

### 1.3 Description of Changes

- (1) Information updated to reflect changes to Part II of the *Canada Labour Code* and pursuant regulations.

## 2.0 REFERENCES AND REQUIREMENTS

### 2.1 Reference Documents

- (1) It is intended that the following reference materials be used in conjunction with this document:
- (a) Part II of the *Canada Labour Code* (R.S., 1985, c. L-2);
  - (b) *Hazardous Products Act* (R.S., 1985, c. H-3);
  - (c) *Aviation Occupational Health and Safety Regulations* SOR/2011-87;
  - (d) *Hazardous Products Regulations* (SOR/2015-17);
  - (e) *Policy Committees, Work Place Committees and Health and Safety Representatives Regulations* (SOR/2016-164);
  - (f) Memorandum of Understanding (MOU) between Human Resources and Skills Development Canada (ESDC) and Transport Canada Respecting the Application and Enforcement of the *Canada Labour Code*, Part II;

### 2.2 Cancelled Documents

- (1) Not applicable.
- (2) By default, it is understood that the publication of a new issue of a document automatically renders any earlier issues of the same document null and void.

### 2.3 Definitions and Abbreviations

- (1) The following **abbreviations** are used in this document:
- (a) **AOHS**: Aviation Occupational Health and Safety;
  - (b) **AOHSR**: *Aviation Occupational Health and Safety Regulations*;

- (c) **AVC:** Assurance of Voluntary Compliance;
  - (d) **CLC:** *Canada Labour Code*, Part II;
  - (e) **ESDC:** Employment and Social Development Canada; (formally known as **HRSDC:** Human Resources and Skills Development Canada);
  - (f) **ICRP:** Internal Complaint Resolution Process;
  - (g) **IPG:** Interpretations, Policies and Guidelines;
  - (h) **MOU:** Memorandum of Understanding;
  - (i) **OPD:** Operational Program Directives.
- (2) The following **definitions** are used in this document:
- (a) **CASI-OHS:** Civil Aviation Safety Inspector – Occupational Health and Safety. An Officer who has been delegated by the Minister of Labour as per subsection 140(1) of the CLC and holds the proper Civil Aviation Safety Inspector delegation from Transport Canada.
  - (b) **Extended jurisdiction:** Delegated responsibility for the administration and enforcement of the CLC for the Minister of Labour. Due to the specialized nature of air, rail and marine transportations, Transport Canada was delegated the responsibility for the administration, enforcement and promotion of the CLC and its pursuant Regulations by the Minister of Labour through an MOU with the Department of Employment and Social Development Canada (ESDC) – Labour Program.
  - (c) **MOU:** Memorandum of Understanding is a joint administrative arrangement between HRSDC (now ESDC) – Labour Program and Transport Canada for the application and enforcement of the CLC in the federal transportation sector.
  - (d) **OPD and IPG:** ESDC develop Operational Program Directives (OPDs) – Labour Program to describe the policies and procedures the Labour Program staff must follow when enforcing the *Canada Labour Code* (CLC) and related Regulations, or performing associated activities OPDs and [Interpretations, Policies and Guidelines](#) (IPGs) are intended to ensure that programs are delivered effectively and consistently across the country. IPGs are available to the general public, and therefore may be used by clients to understand interpretations.

### 3.0 BACKGROUND

- (1) The primary objective of the Aviation Occupational Health and Safety (AOHS) Program is to ensure the health and safety of crewmembers on board aircraft in operation. This is accomplished through the administration, enforcement and promotion of the *Canada Labour Code* (CLC) and its pursuant regulations.
- (2) The purpose of the CLC, according to section 122.1, is "*...to prevent accidents and injury to health arising out of, linked with or occurring in the course of employment...*"
- (3) The primary responsibility for the administration and enforcement of the CLC rests with the Minister of Labour. However, due to the specialized nature of air, rail and marine transportation, Transport Canada was delegated the responsibility for the administration, enforcement and promotion of the CLC and its pursuant Regulations by the Minister of Labour through a Memorandum of Understanding (MOU) with the Department of ESDC – Labour Program.

### 3.1 Requirements under Part II of the *Canada Labour Code*

- (1) A major goal of the CLC is to promote voluntary compliance from both employers and employees and facilitate co-operation between them to resolve workplace health and safety problems.
- (2) Sections 124 and 125 of the CLC describe the general and specific duties of employers. In this regard, air operators familiarize themselves with these sections of the CLC and the associated regulations notably the *Policy Committees, Work Place Committees and Health and Safety Representatives Regulations* and AOHSR. Amongst other things, employers are responsible for the following:
  - (a) ensuring that the health and safety at work of every person employed by the employer is protected;
  - (b) investigating, recording and reporting to the authorities all accidents, occupational diseases and hazardous occurrences in accordance with paragraph 125(1)(c) of the CLC and from sections 10.3 to 10.8 of AOHSR (Please refer to Appendix A for a summary of the reporting requirements as required by sections 10.4 and 10.6 of AOHSR and refer to Appendix B for annual reporting requirements as per section 10.7 of AOHSR and section 9 of the *Policy Committees, Work Place Committees and Health and Safety Representatives Regulations*. In summary, there are four different types of reporting required by employers; and
  - (c) ensuring that employees have the necessary information, training, and supervision to perform their work safely. This includes an appropriate understanding of overall work safety procedures, knowledge of the safe use of workplace tools and equipment, awareness of known or foreseeable workplace hazards.
    - (i) Employers must also ensure that are adequate trained to understand their duties:
      - (A) managers and supervisors related to the internal complaint resolution process, refusals to work, and accident investigations and reporting and any other health and safety duties assigned to them.
      - (B) health and safety committees/representatives.
- (3) The CLC requires that employers nominate or establish:
  - (a) a health and safety representative where there are fewer than 20 employees;
  - (b) a workplace health and safety committee where there are 20 or more employees; and
  - (c) a health and safety policy committee where there are 300 or more employees.
- (4) Some provisions of the CLC describe the basic rights of the employee. Employees have three basic rights:
  - (a) **The right to know**, as outlined in subsections 134.1(5) and (6), 135(8) and (9) and 136(6) and (7) of the CLC: These subsections are about any factors in the workplace that may affect the employee's health or safety. Through their health and safety representation, employees also have the right to have access to government or employer reports relating to the health and safety of employees. They shall not have access to medical records of any person except with that person's consent;
  - (b) **The right to participate**, as outlined in section 126 of the CLC: This particular right is exercised by the employee(s) participation in its Policy Committee or its Workplace Health and Safety Committee or with the Health and Safety Representative; and
  - (c) **The right to refuse dangerous work**, as outlined in subsections 122(1) and 128(1) of the CLC: An employee has the right to refuse dangerous work if he has reasonable cause to believe that a condition exists at work that presents a danger to himself or

herself, the use or operation of a machine or thing presents a danger to the employee or a co-worker, or the performance of an activity constitutes a danger to the employee or a co-worker.

- (5) Section 127.1 of the CLC describes the Internal Complaint Resolution Process (ICRP). Its main purpose is to describe a more rapid and effective process for the resolution of complaints, with less government intervention.
- (a) **Complaint to supervisor:** the employee who believes on a reasonable ground that there has been a contravention to the CLC should make a complaint to the employee's supervisor, as stated in subsection 127.1(1) of the CLC;
  - (b) **Resolve complaint:** the employer should try to resolve the complaint as soon as possible, in accordance with subsection 127.1(2) of the CLC;
  - (c) **Investigation of complaint:** an unresolved complaint should be referred to the Workplace Committee or Representative for a joint investigation as outlined in subsection 127.1(3) of the CLC;
  - (d) Employees should be informed of the result of the investigation and recommendations should be made on the situation that gave rise to the complaint, as stated in subsections 127.1(4) and 127.1(5) of the CLC;
  - (e) If the complaint is justified, the employer shall inform in writing and without delay the persons who performed the investigation on how and when the employer will resolve the matter, in accordance with subsection 127.1(6) of the CLC;
  - (f) The employee or employer may refer to a Civil Aviation Safety Inspector Occupational Health and Safety (CASI-OHS) in the following circumstances, as outlined in subsection 127.1(8) of the CLC:
    - (i) employer does not agree with the result of the investigation;
    - (ii) employer has failed to inform the persons who performed the investigation of how and when he intends to resolve the matter or has failed to resolve the matter; or,
    - (iii) the persons who investigated do not agree as to whether the complaint is justified.
  - (g) The CASI-OHS shall investigate the complaint referred to him. Before doing so, he/she will request a copy of the investigation reports from the employer and from the work place committee or representative in order to have a full understanding of the issue at end;
  - (h) On completion of the investigation the CASI-OHS may:
    - (i) recommend that the employer and employee resolve the matter between themselves in accordance with paragraph 127.1(10)(b) of the CLC;
    - (ii) request an Assurance of Voluntary Compliance (AVC) from the employer and/or the employee;
    - (iii) issue a direction to the employer and/or the employee in accordance with paragraph 127.1(10)(a) and subsection 145.(1) of the CLC.

#### **4.0 AVIATION OCCUPATIONAL HEALTH AND SAFETY PROGRAM AT TRANSPORT CANADA**

- (1) Within Transport Canada Headquarters, the AOHS Program division is tasked with administering and enforcing the CLC for TCCA and reports to the Director, Standards Branch.
- (2) Each Transport Canada regional office has AOHS Inspectors who hold the proper Transport Canada Safety Inspector Delegation and have been designated by the Minister of Labour, pursuant to the section 140 of the CLC. Their primary duty is to monitor compliance with the CLC and with the AOHSR, and, when necessary, enforce the CLC and its pursuant regulations.
- (3) The National Operations Branch at Transport Canada also has AOHS Inspectors who hold the same delegation of authority as outlined in paragraph (2). The Branch is dispersed across the country and at Headquarters. National Operations AOHS Inspectors are responsible for major air carriers.
- (4) The AOHS Inspectors respond to complaints, refusals to work and serious accidents. They will also visit aviation companies for the purpose of conducting inspections, investigations, surveillance procedures, assessments, awareness seminars and other promotional activities.

#### **5.0 CONCLUSION**

- (1) The AOHS Program is responsible for administering and enforcing the CLC and its pursuant Regulations on behalf of ESDC – Labour Program. In summary, to be in compliance with the CLC the employer must provide equipment, training and procedures to ensure the health and safety of its employees at work. The employees have the obligation to use and to wear the equipment provided by the employer and to comply with the health and safety procedures established by the employer.

#### **6.0 INFORMATION MANAGEMENT**

- (1) Not applicable.

#### **7.0 DOCUMENT HISTORY**

- (1) Advisory Circular (AC) LTA-004, **Issue 01**, dated 2010-10-13, RDIMS 5020809 (E), 5096914 (F) — *Aviation Occupational Health and Safety Program*.

## 8.0 CONTACT OFFICE

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[http://www.tc.gc.ca/eng/civilaviation/standards/commerce-ohs-reach\\_us-menu-2116.htm](http://www.tc.gc.ca/eng/civilaviation/standards/commerce-ohs-reach_us-menu-2116.htm)

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**APPENDIX A—REPORTING REQUIREMENTS**

*This summary is for reporting requirements as required by sections 10.4 and 10.6 of AOHSR*

<i>Incident</i>	
<p>10.4 The employer shall report within 24 hours any occurrence which results in:</p> <ul style="list-style-type: none"> <li>(a) the death of an employee;</li> <li>(b) a disabling injury to two or more employees;</li> <li>(c) the loss of, or complete loss of the use of, a body member or part of a body member by an employee;</li> <li>(d) the permanent impairment of a body function of an employee;</li> <li>(e) a fire;</li> </ul> <p style="text-align: center;"><b>Employer advise Regional TC or National Operations AOHS;</b></p> <p style="text-align: center;">↓</p> <p style="text-align: center;">Regional TC or National Operations fills out the Preliminary Event Report form.</p> <p style="text-align: center;">↓</p> <p style="text-align: center;">Regional TC or National Operations forward the Preliminary Hazardous report form to AARTFA who fills out the bottom part; and</p> <p style="text-align: center;">↓</p> <p style="text-align: center;">AARTFA forwards the form to ESDC-Labour Program</p>	<p>10.6 The employer shall, without delay, send a report in writing to the safety and health committee or the safety and health representative, when an investigation referred to in section 10.3 discloses that the hazardous occurrence resulted...</p> <ul style="list-style-type: none"> <li>(a) a disabling injury to an employee;</li> <li>(b) an electric shock, toxic atmosphere or oxygen-deficient atmosphere that caused an employee to faint or lose consciousness; or</li> <li>(c) the implementation of rescue, revival or other similar emergency procedures affecting an employee;</li> </ul> <p style="text-align: center;"><b>Employer must investigate the incident or accident;</b></p> <p style="text-align: center;">↓</p> <p style="text-align: center;">Employer has 14 days to forward their full Hazardous Occurrence Report form:</p> <p style="text-align: center;">(PART 10 - SCHEDULE 1):</p> <p style="text-align: center;"><a href="http://www.tc.gc.ca/media/documents/ca-standards/26-0621.pdf">http://www.tc.gc.ca/media/documents/ca-standards/26-0621.pdf</a></p> <p style="text-align: center;">↓</p> <p style="text-align: center;">To TC Regional or National Operations AOHS.</p>

## APPENDIX B—ANNUAL REPORTING REQUIREMENTS

This summary is for annual reporting requirements as per section 10.7 of AOHSR and section 9 of *Policy Committees, Work Place Committees and Health and Safety Representatives Regulations*.

Section 10.7 of AOHSR:

10.7 (1) Every employer shall, not later than March 1 of each year, submit to the Minister a written report setting out the number of accidents, occupational diseases and other hazardous occurrences of which the employer is aware affecting any employee in the course of employment on board an aircraft during the 12-month period ending on December 31 of the preceding year.

(2) The report shall contain the information referred to in the form set out in Schedule 2 to this Part.

This form can be found at:

<http://www.tc.gc.ca/media/documents/ca-standards/26-0765.pdf>

Section 9 of *Policy Committees, Work Place Committees and Health and Safety Representatives Regulations*:

(1) On or before March 1 each year, the chairperson selected by the employer members of the work place committee must submit to the Minister an annual report of the committee's activities during the 12-month period ending on December 31 of the preceding year.

(2) The report must be in the form set out in the schedule, contain the information set out in the form, and be signed by both chairpersons.

(3) As soon as possible after the report has been submitted, the employer must post a copy of it in the conspicuous place or places in which the employer posts the information referred to in paragraph 125(1)(z.17) or subsection 135(5) of the Act and keep the copy posted for a period of two months.

This form can be found at:

[http://wwwapps.tc.gc.ca/Corp-Serv-Gen/5/forms-formulaires/download/26-0616\\_BO\\_PD](http://wwwapps.tc.gc.ca/Corp-Serv-Gen/5/forms-formulaires/download/26-0616_BO_PD)

Additional information on how to complete, retain and submit these reports can be found on ESDC web site at the following address:

<https://www.canada.ca/en/employment-social-development/services/health-safety/workplace-safety/employer-annual-report.html>