OHS LEGISLATIVE OBJECTIVES

Issues Paper #1

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in British Columbia

Prepared by the OHS Legislation Research Team, being:
George Heinmiller, George Bryce and Victoria MacFarlane

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OHS Legislative Objectives

1.0 Purpose
The purpose of this paper is to raise some of the issues concerning occupational health and safety objectives as expressed or implied within legislation in support of the Commission's deliberations on Term 2.2.

2.0 Issues in Brief
The following issues are discussed in this paper:

- Why are objectives important?
- Do BC's OHS statutes contain a statement of objectives or purpose? What is it?
- Do other Canadian or foreign OHS statutes contain statements of objectives? What are they?
- How do BC's OHS legislative objectives compare to those from other jurisdictions?

3.0 Why are Objectives Important?
Objectives state what the agency is trying to achieve. This kind of clarity is essential for planning and accountability.

Clear objectives assist the agency in determining what programs and services it needs to offer. Without clear objectives, decisions regarding what proportion of resources should be allocated to various programs, what new programs should be offered, and what modifications should be made to existing programs, can become subject to a variety of influences.

Clear objectives can lead to measurable goals, and enable the agency to determine whether or not it is being effective in achieving these goals.

Objectives for the agency, and directions regarding how the agency is expected to achieve these objectives, may or may not be stated within the statute itself. Some statutes contain legislative objectives. Legislative objectives, however, are not directed solely at the agency responsible for administering the legislation. Driedger on the Construction of Statutes\(^1\) offers a useful definition of legislative objectives or purpose statements (at page 263):

\(^1\)Driedger on the Construction of Statutes (Toronto, Ontario: Butterworths, 1994, 3rd. ed.)
A purpose statement is a provision set out in the body of the legislation that declares the principles or policies that the legislation is meant to implement or the objectives it is meant to achieve. Usually purpose statements are found at the beginning of an Act or the portion of the Act to which they relate. Some are explicit and begin with the words “The purposes of this Act are...” or “It is hereby declared that...”. Others simply recite the principles or policies that the legislature wishes to declare without introductory fanfare. ...

Like preambles, purpose statements reveal the purpose of legislation and they are also an important source of legislative values.

As Driedger has noted, legislative objectives state what the legislature wants the legislation to accomplish. Usually legislative objectives are stated in general terms, and provide general guidance to everyone (the agency, the affected parties and the courts) as to the legislature’s intentions.

On the other hand, legislative objectives can be used to define the limits of discretion that may be conferred on an agency so that, for example, any of its delegated powers must be exercised in strict accordance with its governing statute.

Legislative objectives reveal the governing principles and policies behind the legislation. This can facilitate judicial understanding of the legislation as a whole and guide interpretation in a particular direction. For example, reference to the objectives can help resolve ambiguous wording where two or more reasonable but alternative interpretations are possible.

Driedger notes that legislative objectives are binding on the courts or an administrative tribunal in that they cannot be contradicted by the courts or the tribunal; they carry the authority and the weight of duly enacted law.

Further, the judicial guidance that can be taken from legislative objectives can also benefit those who must comply with the legislation.

Statutes may contain, in addition to legislative objectives, separate provisions that direct the administering agency to undertake certain tasks in support of the legislation (for example, a statement of “means”). The statute may authorize the Minister (or Cabinet) to provide specific direction to the agency concerning how the legislative objectives are to be achieved. The power to issue such directives can be authorized under the statute, without
spelling out the directives within the statute itself. The statute could also empower the Minister to approve objectives or mandate statements that the agency has developed.

When the legislature's expectations with respect to the objectives of the agency, and with respect to the means by which the agency is to achieve these objectives, are clearly stated within the statute, the agency is then accountable for pursuing these means and for achieving these objectives. Indeed, there is currently a movement within the federal government to review all public sector legislation with the intent to build in more accountability than currently exists.

3.1 Possible Disadvantages of Objectives Statements

Despite these apparent advantages, there have been arguments expressed against providing a clear statement of objectives within the legislation.

A prescriptive objectives statement may be perceived to limit an agency’s discretion in areas where it considers this discretion important. It could be argued that a statement of objectives that does not tell the agency what to do is more useful than a prescriptive one which leaves little discretion to the agency, particularly when that agency is responsible to various interest groups who have different and at times conflicting viewpoints. With a very general statement of objectives, the agency has greater freedom to make decisions that represent compromises. On the other hand, when objectives are vague, different interests groups can more easily argue that their particular recommendation for change is consistent with these objectives.

Objectives can also create problems if they are improperly drafted. When drafting purpose provisions with more than one objective, for example, it is important that the objectives be internally consistent and not conflict with each other. It is also important that the objectives do not conflict with substantive provisions found elsewhere within the statute.

Finally, if objectives are not reviewed on a regular basis, they may become outdated. In this case, the agency may be bound to a set of objectives that are no longer relevant.

In a 1996 paper, Statutory Amendment : Purpose Statement,\textsuperscript{2} the Board considered whether the WCAct should be revised to include a purpose statement that would

\textsuperscript{2} Statutory Amendment : Purpose Statement, draft discussion paper, Policy and Regulation Development Bureau, Workers' Compensation Board, July 25, 1996.
provide direction for the operation of the compensation system. It is perhaps not surprising the Board concluded that such a statement should not be added to the Act, given that its analysis focused on agency directives rather than legislative objectives. Indeed, in support of its position, the Board pointed to its extensive policies, its regulation consultation process, its awareness of the public interest in its operations, and its mission statement, vision statement and strategic plan. Unfortunately, there is no specific analysis of the advantages or disadvantages of legislative objectives in the context of OHS.

3.3 Conclusions
While there may be some disadvantages to a clear statement of objectives, particularly if they go further and direct the agency to operate in a particular manner, it could be argued that this is exactly what justifies having these objectives in place. The legislature has a responsibility to articulate its expectations with respect to the agencies that administer workers compensation and occupational health and safety programs, and these agencies in turn have a responsibility to ensure that they are operating in accordance with these expectations.

Many of the disadvantages discussed above can be addressed by careful consideration in drafting and in establishing processes for review. Care must be taken to ensure that there is sufficient clarity for the agency, but that any directives included are not so restrictive as to limit the agency’s discretion in an adverse way. The focus in a statement of objectives should be clearly on objectives; however, if the statement is to include more specific directions to the agency in terms of what steps it should take, these should also be clear. Furthermore, it is important to ensure the objectives statements are consistent with each other and with other provisions within the statute. Finally, a process for reviewing and update the objectives should be in place, so that these objectives remain current and relevant.

Clear objectives can be approved by the legislature and it is not necessarily required that the legislature’s definition of objectives be contained within the statute itself. For example, one alternative might be to include within the statute a statement that empowers the Minister to approve objectives or mandate statements that the agency has developed. Either way, there appears to be substantial justification for the provision of a clear statement of direction to the agency from the legislature that can be used to guide the agency in its delivery of services, and to which the agency is ultimately accountable.
4.0 Comparing Different OHS Legislative Objectives

In the past, Canadian legislation only rarely stated outright the social policy objectives that it was designed to achieve. Most objectives had to be deduced by reading the entire applicable statute and regulations.

It is now more common for governing statutes to contain a provision that states the legislation's objectives. The legislatures of five of the twelve Canadian jurisdictions (i.e., federal, provincial and territorial) with dedicated OHS statutes have included provisions that express their objectives for OHS within these statutes. The objectives within the other statutes are implied but not expressly stated. BC is the only one of the thirteen Canadian jurisdictions that does not have a separate, dedicated OHS statute.

4.1 Implied Objectives within BC Legislation

The Workers' Compensation Act\(^3\) ("WCAct"), the Workplace Act\(^4\) ("WAct") and the Mines Act\(^5\) are the primary OHS legislation in BC. None of these statutes contain a preamble or a provision setting out the objectives or purpose of the legislation. The same is true of the corresponding regulations. However, it is possible to deduce the legislation's purpose from statements within various sections of these statutes. This implied purpose appears to be to prevent injuries and diseases that are due to workplace hazards, by approving and enforcing regulations and by undertaking education and research.

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\(^3\) Workers' Compensation Act, R.S.B.C. 1996, c.492  
\(^4\) Workplace Act, R.S.B.C. 1996, c.493  
\(^5\) Mines Act, R.S.B.C. 1996, c.293
For example, the regulation-making provision of the WCA ct provides an indication of that statute's OHS objectives (our emphasis):

71(1) The board may make regulations, whether of general or specific application and which may apply to employers, workers and all other persons working in or contributing to the production of an industry within the scope of this Part, for the prevention of injuries and industrial diseases in employments and places of employments, ...

A further objective relating to education and research in support of prevention can be extracted from section 71(4):

(4) The board may engage in and carry on a general educational program for employers, employees and the general public in relation to the prevention of accidents and industrial diseases, first aid and the general operations and responsibilities of the board... and may undertake or support research in matters relating to its responsibilities under the Act.

Like the WCA ct, the OHS objectives of the WA ct must be deduced in part from its regulation-making provisions (our emphasis):

**Regulations for health, safety and comfort of workers**
4(1) The board may make regulations of both general and specific application that are considered necessary or advisable as follows:
   (a) for the protection of the health, safety and comfort of persons working in or contributing to the operation of a factory, office or shop, ...

**Regulations for health and safety of workers**
5(2) The Lieutenant Governor in Council may make regulations of both general and special application...
   (b) respecting the health and safety of homeworkers.

The OHS objectives of the Mines Act must also be deduced in a similar manner (our emphasis):

**Health, safety and reclamation code committee**
34(3) The committee must prepare a code dealing with all aspects of health, safety and reclamation in the operation of a mine...

**Power to make regulations**
38(2) ... the Lieutenant Governor in Council may make regulations as follows:
(c) relating directly or indirectly to the health and safety of all persons, including the public, in, on or about mines, either underground or on the surface; ...
(d) delegate to inspectors the power, by order, to vary codes, standards and other prescribed matters in the interests of health and safety in individual mines, and
(e) ... and to close, in the interest of health and safety, any mining operation in which more uranium than the prescribed amount or proportion is found.

4.2 Expressly Stated Objectives In Other Canadian Legislation
There are a number of examples of clearly expressed objectives within other provincial statutes.

Section 122.1 of the federal Canada Labour Code states that the purpose of Part II of the Code (titled "Occupational Safety and Health") is:

[To prevent accidents and injury to health arising out of, linked with or occurring in the course of employment to which this Part applies.]

The objectives of PEI's Occupational Health and Safety Act is similar to the federal Code:

[To secure employees and self-employed persons from risks to their safety, health and physical well-being arising out of, or in connection with, activities in their workplaces.]

Quebec's An Act Respecting Occupational Health and Safety also contains similar wording, but hints at that province's view of the internal responsibility system.

2. The object of this act is the elimination, at the source, of danger to the health, safety and physical well-being of workers. This act provides mechanisms for the participation of workers, workers' associations, employers and employers' associations in the realization of its object.

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Manitoba's *Workplace Safety and Health Act*\(^9\) is unlike any other Canadian OHS legislation in that it:

- contains the most detailed statement of purpose;
- goes beyond protecting workers and includes public protection from workplace hazards;
- takes an expansive view of the types of workplace health and safety hazards to be addressed;
- speaks to promoting the highest degree of physical, mental and social well-being of workers;
- specifically addresses adapting the workplace environment to match workers' physiological and psychological conditions.

Section 2 of Manitoba's OHS statute ("General objectives and purposes") states:

2(1) The objects and purposes of this Act are:

(a) to secure workers and self-employed persons from risks to their safety, health and welfare arising out of, or in connection with, activities in their workplaces; and

(b) to protect other persons from risks to their safety and health arising out of, or in connection with, activities in workplaces.

(2) Without limiting the generality of subsection (1), the objects and purposes of this Act include:

(a) the promotion and maintenance of the highest degree of physical, mental and social well-being of workers;

(b) the prevention among workers of ill health caused by their working conditions;

(c) the protection of workers in their employment from factors promoting ill health; and

(d) the placing and maintenance of workers in an occupational environment adapted to their physiological and psychological condition.

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\(^9\) *Workplace Safety and Health Act*, R.S.M. 1987, c.W210
Nova Scotia's Occupational Health and Safety Act\(^\text{10}\) does not contain an objects clause, however it does declare that internal responsibility is the foundation of its approach to OHS.

2. The foundation of this Act is the Internal Responsibility System which
   (a) is based on the principle that
      (i) employers, contractors, constructors, employees and self-employed persons at a workplace, and
      (ii) the owner of a workplace, a supplier of goods or a provider of an occupational health or safety service to a workplace or an architect or profession engineer, all of whom can affect the health and safety of persons at the workplace, share the responsibility for the health and safety of persons at the workplace;
   (b) assumes that the primary responsibility for creating and maintaining a safe and healthy workplace should be that of each of these parties, to the extent of each party's authority and ability to do so;
   (c) includes a framework for participation, transfer of information and refusal of unsafe work, all of which are necessary for the parties to carry out their responsibilities pursuant to the Act and the regulations; and
   (d) is supplemented by the role of the Occupational Health and Safety Division of the Department of Labour, which is not to assume responsibility for creating and maintaining safe and healthy workplaces, but to establish and clarify the responsibilities of the parties under the law, to support them in carrying out their responsibilities and to intervene appropriately when those responsibilities are not carried out.

Nova Scotia is the only province that has expressly declared support for IRS within its OHS statute, thereby making IRS the foundation for subsequent regulations and the philosophy that will guide the agency's enforcement activities.

Ontario has suggested that it also wishes to formally adopt IRS and reflect this system in future changes to its OHS legislation and programs.\(^\text{11}\)

\(^{10}\) Occupational Health and Safety Act, R.S.N.S. 1996, c.7

4.3 Redundant Objectives
Ontario and the Yukon Territory have references to OHS within their respective compensation statutes. Given that both of these jurisdictions also have dedicated OHS statutes, the OHS objectives found within their compensation statutes are redundant. Their existence reflects the fact that OHS was addressed under those statutes before the dedicated statutes were established.

Section 1(1) of the Yukon’s Workers’ Compensation Act\(^\text{12}\) states in part:

> The objectives of this Act are ...(f) to combine efforts and resources for the prevention of workplace disabilities, including the enforcement of health and safety standards.

Ontario has retained the following purposes in its Workers’ Compensation Act\(^\text{13}\)

> The purpose of this Act is to accomplish the following in a financially responsible and accountable manner: ...
> 5) To prevent and reduce the occurrence of injuries and occupational disease at work.
> 6) To promote health and safety in workplaces.

4.4 Stated Objectives in Foreign Legislation
Purpose and objectives provisions also can be found in some foreign OHS statutes. The following are some examples.

In the United States, OHS legislation has been developed at the federal and state level. The federal Occupational Safety and Health Act of 1970 contains a clear statement of purpose (our emphasis).

**Congressional Findings and Purpose**
Sec. (2) The Congress finds that personal injuries and illnesses arising out of work situations impose a substantial burden upon, and are a hindrance to, interstate commerce in terms of lost production, wage loss, medical expenses, and disability compensation payments.
(b) The Congress declares it to be its purpose and policy, through the exercise of its powers to regulate commerce among the several States and with foreign nations and to provide for the general welfare, to assure as far as possible every working man and woman in the Nation safe and healthful working conditions and to preserve our human resources.

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\(^{12}\) Workers’ Compensation Act, S.Y. 1992, c.16
\(^{13}\) Workers’ Compensation Act, R.S.O. 1990, c.W.11
The American federal OHS statute also sets out thirteen specific directives concerning how this legislative purpose will be achieved. These directives (quoted in Appendix "A") address employer and employee efforts at the worksite and encourage joint labour-management efforts. They also speak to standards, research (including psychological factors and latent diseases), training and reporting.

Australia is also a federal system with separate OHS statutes for national and state jurisdictions. The Australian federal Occupational Health and Safety (Commonwealth Employment) Act 1991 states:

3. The objects of this Act are:
   (a) to secure the health, safety and welfare at the work of employees of the Commonwealth and of Commonwealth authorities; and
   (b) to protect persons at or near workplaces from risks to health and safety arising out of the activities of such employees at work; and
   (c) to ensure that expert advice is available on occupational health and safety matters affecting employers, employees and contractors; and
   (d) to promote an occupational environment for such employees at work that is adapted to their needs relating to health and safety; and
   (e) to foster a co-operative consultative relationship between employers and employees on the health, safety and welfare of such employees at work.

In the state of Queensland, section 7(1) of the Workplace Health and Safety Act, 1995 states:

   The overall object of this Act is to ensure freedom from disease or injury to persons caused, and risk of disease or injury to persons created, by workplaces, workplace activities or specified high risk plant (öworkplace health and safetyö).

Like the United States, Queensland's objectives provision then describes how those objectives are to be achieved. These methods reflect an acceptance of the internal responsibility system, using the mechanism of workplace occupational health and safety committees, in conjunction with continued enforcement activities. Queensland's stated means are reproduced in Appendix "B".
New South Wales' *Occupational Health and Safety Act, 1993* clearly states its objectives:

5(1) The objects of this Act are:

(a) to secure the health, safety and welfare of persons at work;

(b) to protect persons at a place of work (other than persons at work) against risks to health or safety arising out of the activities of persons at work;

(c) to promote an occupational environment for persons at work which is adapted to their physiological and psychological needs; and

(d) to provide the means whereby the associated occupational health and safety legislation may be progressively replaced by comprehensive provisions made by or under this Act.

The state of Victoria’s *Occupational Health and Safety Act, 1985* has similar objectives:

6. The objects of this Act are

(a) to secure the health, safety and welfare of persons at work;

(b) to protect persons at work against risks to health or safety;

(c) to assist in securing safe and healthy work environments;

(d) to eliminate, at the source, risks to the health, safety and welfare of persons at work;

(e) to provide for the involvement of employees and employers and associations representing employees and employers in the formulation and implementation of health and safety standards.

In Victoria's statute, the functions of the OHS authority are laid out immediately following the objects and include statements that the authority is to make recommendations to the Minister with respect to regulations, to promote education and training, to collect and disseminate information and to commission and sponsor research. Appendix "C" quotes these functions in full.
New Zealand's Health and Safety in Employment Act, 1992 states:

5. Objects  (1) This Act's principal object is to provide for the prevention of harm to employees at work.
   (2) For the purpose of attaining its principal objective, this Act ---
   (a) promotes excellence in health and safety management by employers;
   (b) prescribes, and imposes on employers and others, duties in relation to the prevention of harm to employees;
   (c) provides for the making of regulations, and the development and in the particular (but without limiting the generality of the foregoing) to significant hazards.

In Sweden, the objective of the Work Environment Act (the governing legislation for occupational health and safety in that country) is: "[T]o prevent ill-health and accidents at work and generally to achieve a good work environment." The Swedish statute requires each workplace consider and take into account how technology, job content and work organization affects its employees in a physical, psychological and social sense.14

5.0 Discussion of Common Elements
While the objectives of OHS legislation found both within and outside Canada vary, they share one common element with BC's implied objective: to protect workers from injuries and diseases that result from workplace hazards.

However, a number of other jurisdictions have placed additional objectives within their legislation:
• to promote the internal responsibility system
• to promote worker participation in reducing workplace hazards
• to protect the public from workplace hazards
• to take an expansive view of the sources of workplace injuries and disease
• to promote the physical, mental and social well-being of workers
• to adapt the workplace to match the worker's condition

Finally, while it can be implied from BC's legislation that the Board's role is to develop and enforce regulations and undertake education and research in support of OHS, other jurisdictions expressly define the role of the regulatory authority in broader or more detailed terms.

The discussion below refers specifically to what is included within the statement of objectives and associated directions to the agency. Some statutes may be more specific with respect to these elements elsewhere within their statutes.

**Promoting Internal Responsibility**

Nova Scotia’s statute provides a clear definition of the “Internal Responsibility System”. The IRS forms the basis for Nova Scotia’s statute, and indeed this statute is the only one among the Canadian jurisdictions which expressly states its support for IRS.

The United States, Victoria and Queensland appear to promote the internal responsibility system, although indirectly, within their statement of objectives. Common to the statutes in Nova Scotia and the U.S. is the specification that the agency support employers and workers in their own efforts to reduce hazards at their workplaces. Victoria’s statute is less clearly defined in this area, however it expressly requires that employers, employees and associations be involved in the formulation and implementation of health and safety standards. While Victoria and the U.S. outline other responsibilities of agencies with respect to education, enforcement, and so on, the Nova Scotia statute states that the agency is “not to assume responsibility for creating and maintaining safe and healthy workplaces” but to support the workplace parties in their efforts, by clarifying responsibilities under the law and intervening when necessary.

**Promoting Worker Participation**

Nova Scotia, Australia (federal), Queensland and Victoria all promote worker participation in reducing workplace hazards. Some of these statutes provide specific direction in terms of how this will be carried out. For example, Queensland states that its objectives are to be achieved by establishing workplace health and safety committees, and Nova Scotia indicates that it includes a framework for participation and transfer of information to workers. Australia’s federal statute is more vague, simply indicating in its purpose statement that it will foster a “co-operative consultative relationship between employers and employees”. Victoria indicates that it will provide for the involvement of employers, employees and associations in formulating standards, but does not outline in its purpose statement how it will do so.
Protecting the Public from Workplace Hazards
Manitoba, Australia (federal), Queensland and New South Wales include statements regarding the protection of the public from workplace hazards. Manitoba, Australia, and New South Wales statutes include separate statements about protecting others (Manitoba, Australia), or others who are not persons at work (New South Wales). Queensland refers more generally to ensuring freedom from risks to “persons” as a result of workplace activities.

Expansive View of the Sources of Injury and Disease
Manitoba, the U.S., and Victoria’s statutes appear to take an expansive view of the sources of workplace injuries and disease. These statutes, for example, promote well-being rather than strictly protecting workers from risks (Manitoba), consider how to encourage new worksite programs and explore ways to discover latent diseases (U.S.), and aim to eliminate risks at their source (Victoria).

Promoting Physical, Mental and Social Well-Being
The statutes in Manitoba and Sweden expressly state that they look beyond physical aspects of injury and disease, to consider social and psychological factors. Manitoba states that it aims to promote and maintain the highest degree of “physical, mental and psychological and social sense.

Adapting the Workplace to the Worker
Manitoba, New South Wales, and Sweden’s statutes refer to the need to adapt the workplace to match the workers’ condition. Manitoba and New South Wales aim to place workers in occupational environments adapted to them physiologically and psychologically. Sweden aims to achieve a “good working environment” by examining impacts of technology, job content and work organization.

Broader Definition of Role of Regulatory Authority
Nova Scotia, United States, Queensland, New South Wales, and Victoria appear to define a broader role for the regulatory agency. After their purpose statements, most of these statutes contain explicit means of achieving the purpose, which vary from statute to statute. Apart from establishing standards, these statutes require the agencies to, for example, support workplace parties who are primarily responsible for health and safety (Nova Scotia), explore causal connections between disease and work environments and
develop innovative methods and techniques to deal with occupational safety and health problems (U.S.), and to establish workplace councils and committees and to promote community awareness (Queensland).

6.0 Conclusions

Compared to the expressed objectives found in other OHS statutes, the implied objectives of BC's OHS legislation appear narrow and out-of-date. None of BC’s OHS statutes contain a preamble or a provision setting out the objectives or purpose of the legislation. The objectives must be deduced from statements of responsibilities that appear in various sections of the statutes. Furthermore, the implied objectives are limited in terms of the direction that they provide to the agency with respect to how it is to achieve them. Several other jurisdictions provide a clear purpose statement within the statute and go further by outlining the steps that the agency needs to take to achieve these objectives.

Statements of purpose that appear outside of the legislation, such as in the regulations or in the agency’s Policy and Procedure Manuals, are not necessarily binding. For example, the Workers’ Compensation Board of BC has exclusive authority to develop and establish its OHS regulations, and neither the Ministry of Labour nor the provincial cabinet play any role in that decision-making process. Any statement of objectives within the regulations are therefore directives that the agency has given itself, rather than directives from the Cabinet or legislature. Similarly, any statement of purpose within the Prevention Division’s Policy and Procedure Manual would only have been drafted and approved internally.

If a publicly accountable agency does not have a clear statement of objectives given to it by the legislature, or if it has only a vague statement that can be interpreted in various ways, then it is left with the option of developing internal statements of objectives however and whenever it determines this to be necessary. Under these circumstances, there is the potential for programs and services to fluctuate in response to competing interests and trends, and there is no system of accountability for the organization.
There is a movement toward demanding greater accountability from public sector organizations that is being responded to by federal and provincial governments. For example, the federal government is planning to review all public sector legislation with the intent to build in more accountability than currently exists. While the Workers’ Compensation Board differs in some respects from other public sector agencies in that it is funded by employers, accountability expectations clearly apply to this agency. The WCAAct requires updating to reflect modern thinking.

The Commission will eventually determine whether or not all OHS legislation that applies in BC should be consolidated. If there is to be consolidation, this may result in a new and separate OHSAct. Alternatively, the Commission may recommend revisions to the existing statutes. In either case, the Commission could recommend that that legislative objectives be expressly stated in that legislation.

The Commission may want to go further and recommend specific wording for those legislative objectives.

**7.0 Recommendations**

The OHS Research Team presents the following recommendations to the Commission.

**7.1 Objectives**

1) That the Legislature expressly state the objectives of OHS legislation in
   (a) the WCAAct, the WAct and the Mines Act, or
   (b) a new OHS statute.

2) That such objectives be clear, internally consistent and complementary, and provide general guidance to those who must comply with the legislation and the courts.

3) In addition to stating the objective "to protect workers from workplace hazards," that consideration be given to including the following within the OHS legislative objectives:
   (a) to promote of the internal responsibility system,
   (b) to encourage worker participation,
   (c) to protect the public from workplace hazards,
   (d) to address all sources of injury and illnesses to be regulated,
   (e) to promote the physical, mental and social well-being of workers, and
   (f) to adapt the workplace to match workers' conditions.
4) That a process be established to ensure that the OHS legislative objectives are reviewed on a regular basis so that they do not become outdated.

7.2 Agency directives
5) In addition to the legislative objectives, that the Legislature provide direction to the agency (agencies) which will administer the legislation referred to in recommendation 1, above,
   (a) by expressly stating agency directives within the legislation, or
   (b) by providing the Minister or Cabinet with the authority to issue directives to the agency or approve a mandate that the agency may propose.

6) In either case, that such directives clearly communicate how the legislative objectives will be administered by the responsible agency, including any specific activities and the expected results of those activities.

7) That a process be established to ensure that the agency directives are developed in consultation with the agency and those who must comply with the legislation, and are reviewed on a regular basis to ensure they do not become outdated.
Appendix "A"

United States Occupational Safety and Health Act of 1970

Section 2 ("Congressional findings and purpose") goes on to state that the purpose and policy of the American federal OHS legislation will be achieved:

1. by encouraging employers and employees in their effort to reduce the number of occupational safety and health hazards at their places of employment, and to stimulate employers and employees to institute new and to perfect existing programs for providing safe and healthful working conditions;
2. by providing that employers and employees have separate but dependent responsibilities and rights with respect to achieving safe and healthful working conditions;
3. by authorizing the Secretary of Labor to set mandatory occupational safety and health standards applicable to businesses affecting interstate commerce, and by creating an Occupational Safety and Health Review Commission for carrying out adjudicatory functions under the Act;
4. by building upon advances already made through employer and employee initiative for providing safe and healthful working conditions;
5. by providing for research in the field of occupational safety and health, including the psychological factors involved, and by developing innovative methods, techniques, and approaches for dealing with occupational safety and health problems;
6. by exploring ways to discover latent diseases, establishing causal connections between diseases and work in environmental conditions, and conducting other research relating to health problems, in recognition of the fact that occupational health standards present problems often different from those involved in occupational safety;
7. by providing medical criteria which will assure insofar as practicable that no employee will suffer diminished health, functional capacity, or life expectancy as a result of his work experience;
8. by providing for training programs to increase the number and competence of personnel engaged in the field of occupational safety and health;
9. by providing for the development and promulgation of occupational safety and health standards;
10. by providing an effective enforcement program which shall include a prohibition against giving advance notice of any inspection and sanctions for any individual violating this prohibition;
(11) by encouraging the States to assume the fullest responsibility for the administration and enforcement of their occupational safety and health laws by providing grants to the States to assist in identifying their needs and responsibilities in the area of occupational safety and health, to develop plans in accordance with the provisions of this Act, to improve the administration and enforcement of State occupational safety and health laws, and to conduct experimental and demonstration projects in connection therewith;

(12) by providing for appropriate reporting procedures with respect to occupational safety and health which procedures will help achieve the objectives of this Act and accurately describe the nature of the occupational safety and health problem;

(13) by encouraging joint labor-management efforts to reduce injuries and disease arising out of employment.
Appendix "B"

Queensland Workplace Health and Safety Act, 1995

Section 7(2) ("Means of achieving object") reads:

7(2) The object is mainly to be achieved by --

(a) establishing a workplace health and safety council and industry committees; and

(b) electing workplace health and safety representatives and establishing workplace health and safety committees; and

(c) appointing workplace health and safety officers; and

(d) making workplace health and safety compliance standards; and

(e) making workplace health and safety advisory standards; and

(f) promoting community awareness about workplace health and safety; and

(g) imposing workplace health and safety obligations on certain persons who may affect the health and safety of others by their acts or omissions; and

(h) appointing inspectors; and

(i) enforcement procedures
Appendix "C"

Victoria's Occupational Health and Safety Act, 1985

Section 8(1) ("Functions of the Authority") states in part:

The functions of the Authority under this Act are --

(a) to inquire into and report to the Minister within the time specified by the Minister upon any matters referred to it by the Minister;

(b) to make recommendations to the Minister with respect to --
   (i) the operation and administration of the Act and the regulations;
   and
   (ii) regulations or codes of practice which it or the Minister proposes should be made or approved;

(c) to examine review and make recommendations in relation to existing and proposed registration or licensing schemes relating to occupational health safety and welfare;

(d) to provide advice to and co-operate with Government departments, public authorities, trade unions, employer organizations and other interested persons in relation to occupational health safety and welfare;

(e) to formulate standards specifications or other forms of guidance for the purpose of assisting employers self-employed persons and employees to maintain appropriate standards of occupational health safety and welfare;

(f) to promote education and training and approve courses in occupational health and safety;

(g) to devise in co-operation with educational authorities or bodies courses in relation to occupational health safety and welfare and to recommend that such courses be integrated into programmes in educational institutions;

(h) to recommend to the Minister the establishment of public inquiries into any matter relating to occupational health and safety;

(i) to collect and disseminate information on occupational health safety and welfare; and

(j) to commission and sponsor research into occupational health safety and welfare --

and include any other functions assigned to it by or under this Act.