

Title:	Right to Refuse	Date of Issue:	April 2016
Approved By:	Mark Runciman	Review/Revision Date:	
Location:	All Locations	Ref. No:	HS-019

Purpose

To ensure that every Royal Botanical Gardens (RBG) employee, volunteer or contractor understands his/her right to refuse work that she/he believes is unsafe under the Occupational Health and Safety Act.

Scope

This policy and procedure applies to all employees, volunteers, and contractors working at RBG.

Policy Statement

To ensure that every RBG employee, volunteer or contractor understands the appropriate procedure for refusing unsafe work.

Note – *RBG does not expect that there will be any situations, which will be unsafe for volunteers in any way. However, there is always the possibility of events happening which could be unsafe to anyone in the nearby area.*

Definitions

Reasonable grounds – for a work refusal means that the worker has some objective information that makes him/her believe that the work is dangerous. The worker does not have to be correct in his/her belief, but the claim must be made in good faith.

Unsafe work – refers to a task, situation, or work condition that is likely to endanger the worker or another person.

Roles & Responsibilities

Managers and Volunteer Lead

- Provide information, instruction, and supervision to employees, volunteers and contractors to protect their health and safety.
- Have a comprehensive understanding of the work refusal process
- Investigate any work refusal without bias and take the necessary steps to resolve the situation in a satisfactory manner to all parties
- If the issue cannot be satisfactorily resolved consult with MOL to have an inspection completed

Employees and Volunteers

- Be familiar with the work refusal process
- Exercise their right to refuse unsafe work when they believe that any equipment, workplace condition or contravention of the OHSA is likely to endanger their or another person's health and safety
- Participate in any investigation and provide suggestions and feedback on corrective actions

Joint Health and Safety Committee

- Be present during the investigation of a work refusal

Ministry of Labour

- Assign an inspector to investigate the work refusal in consultation with specified persons

Procedure

The conditions under which a worker may refuse unsafe work

- Every worker has the right to refuse work if she/he has reason to believe that:
- The equipment, machine, or tool the worker is using or is told to use is likely to endanger himself/herself or another worker
- The physical condition of the workplace or work station is likely to endanger the worker
- Workplace violence is likely to endanger the worker
- The equipment, machine, or tool the worker is using, or physical condition of the workplace, contravenes the Occupational Health and Safety Act

Stage 1

- If a worker believes that his/her work is dangerous, the worker must immediately inform his/her Manager/Auxiliary Lead that the work is being refused and explain why she/he believes the work is dangerous. The Manager/Auxiliary Lead must inform HR and a worker member of the Joint Health and Safety Committee. The refusing worker must complete Section A of the Work Refusal Investigation Form provided by his/her Manager/Auxiliary Lead or found under the Health and Safety page of RBG's intranet.
- The Manager/Auxiliary Lead must immediately investigate the claim with HR, in the presence of the worker and a certified JHSC worker member. At this stage, no other worker will be asked to perform the work under investigation. The worker is to remain in a safe area until the investigation is complete.
- The Manager/Auxiliary Lead must complete Sections B – C of the Work Refusal Investigation Form and review his/her findings with the worker, JHSC representative and HR. Section D summarizes the outcome of the investigation and is to be completed by the worker, Manager/Auxiliary Lead, and JHSC representative and given to HR.
- If the situation is resolved at this point, either because the unsafe work condition is rectified or the investigation team concludes that the work is safe, the worker may return to work. If the worker, however, still has reasonable grounds for believing that the work is dangerous, she/he may continue to refuse the work. If this occurs, Stage 2 of the process follows.

Stage 2

- At this stage, either the employer or the worker is responsible for notifying the Ministry of Labour regarding the work refusal. The individual who calls the Ministry of Labour is responsible for informing the other parties of the date of this call. Section E of the Work Refusal Investigation Form must be completed if the Ministry of Labour is contacted. An inspector from the Ministry will visit the workplace to investigate the claim.
- The inspector will interview the worker who made the claim, the Manager/Auxiliary Lead, and the JHSC member involved in the investigation. Any workers,

Manager/Auxiliary Leads, or JHSC members interviewed by the Ministry are expected to cooperate with the investigation.

- During this investigation, the worker who made the claim will be assigned to another task by his/her Manager/Auxiliary Lead if reasonable work is available (subject to the terms of the collective agreement).
- In accordance with the Occupational Health and Safety Act, RBG may assign another worker to the refused task during the Ministry's investigation, as long as the second worker is informed of the work refusal and the reason for the refusal. A worker representative of the JHSC must be present when this work is assigned. The second worker has the same right to refuse as the first worker. In the event that a second worker agrees to complete the refused task, the worker must sign a waiver acknowledging that she/he has been informed of the work refusal. This waiver will be provided by HR.
- Following the investigation, the Ministry inspector will issue a written report of his/her decision, which will be given to all parties involved (the worker, the employer, and the JHSC member). If the inspector concludes that the work is safe, the worker is expected to return to work. RBG will comply with any orders issued by the Ministry of Labour.

No Reprisals

- Employees will not be disciplined for exercising their right to refuse under the Occupational Health and Safety Act, as long as such claims are made in good faith. Employees who fail to comply with the results of a Ministry inspection, however, may be subject to disciplinary measures.

Appendix A – Worker Refusal Form

SECTION A: WORKER INFORMATION (To be completed by the worker)	
Worker Name:	Position:
Department:	Date and Time of Work Refusal:
Supervisor Reported to:	
Location of Work Refusal:	Task Assigned:
Worker's reason for work refusal (please provide specific details):	
Employee's Signature:	Date:
SECTION B: SUPERVISOR INFORMATION (To be completed by the supervisor)	
Supervisor Name:	Date and Time Notified of Work Refusal:
Immediate Action Taken (if any):	
INVESTIGATION DETAILS	
Date and Time of Investigation:	Worker Present During Investigation? (Worker must be present during investigation) Yes () No ()
Health and Safety Representative:	Union Representative (if applicable):
Supervisor's Observations During the Investigation (please provide specific details):	

SECTION A: WORKER INFORMATION (To be completed by the worker)

Does the supervisor recommend corrective action?
(If yes, complete Section C)
(If no, continue to Section D)

Yes () No ()

Provide reasoning if no corrective action is recommended:

Supervisor's Signature:

Date:

SECTION C: RECOMMENDED ACTION PLAN (To be completed jointly by the supervisor and the worker)

Suggested Corrective Action

Date Corrective Action
Completed

SECTION D: RESOLUTION OF WORK REFUSAL

Is the worker in agreement with the supervisor's findings and corrective action plan?

Yes () No ()

If no, please provide an explanation:

Worker's Signature:

Date:

H&S Representative's Signature:

Date:

SECTION A: WORKER INFORMATION (To be completed by the worker)Union Representative's Signature:
(If applicable)

Date:

SECTION E: MINISTRY INSPECTION (To be completed if Ministry of Labour called for inspection)

Name of Who Contacted MOL:

Date MOL Contacted:

Name of MOL Investigator:

Date of MOL Inspection:

Orders Written?

Y () No () Ref. #

Date of Compliance:

Appendix B – Second Worker Agreement

In the event of a work refusal, a second worker may perform the refused task only after the initial work refusal has been investigated and deemed safe by a supervisor, in the presence of a worker member of the Joint Health and Safety committee and the refusing worker.

I, *(Employee's Name)*, have been advised of the work refusal on *(Date)* at *(Location)* including the reasons for the Work refusal in the presence of *(Joint Health and Safety Worker Member Name)*

I am aware of the reasons for the work refusal and I am comfortable performing the duties as assigned.

Employee's Signature

Date

Supervisor's Signature

Date

H&S Member's Signature

Date