

**NT, SA, Tasmania, Queensland & Comcare: WHS ACT:**

**RECORD of CONSULTATION**

Date	HSR Name	PCBU/Employer Representative Name
Time	Workgroup	PCBU/Employer Representative Title
<b>Who was present at the meeting?</b>		
<input type="checkbox"/> I received all the information prior to the meeting [please tick]		
<b>What is the WHS Issue/consultation topic being discussed</b>		
<input type="checkbox"/> Section 19: failure to provide a healthy and safe work <input type="checkbox"/> Section 47: failure to consult <input type="checkbox"/> Other	Details	
<b>What is the proposed solution[s]?</b>		
HSR Proposed solution[s]	Employer Proposed solution[s]	
Solution agree <input type="checkbox"/> Yes <input type="checkbox"/> No	Solution agree <input type="checkbox"/> Yes <input type="checkbox"/> No	
<b>What are the agreed next steps?</b>		
<input type="checkbox"/> Pursuant to section 90(3) of the WHS Act, a copy of this record was given to the PCBU/Employer Rep named above as evidence of the consultation that was undertaken to attempt to resolve the health and safety issue.		
<input type="checkbox"/> I hereby advise the PCBU/Employer representative that if the issue is not remedied, I <b>may choose to exercise my right</b> to issue a Provisional Improvement Notice under Section 90 of WHS Act or take alternative action in accordance with the Act.		
HSR Signature:		

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### General Information about Consultation

The WHS Act, Part 5 sections 46, 47, 48 and 49 require that the PCBU/employer consults with workers and their HSRs about health and safety matters.

The PCBU/employer needs to consult when

- Identifying hazards and assessing risks
- Making decisions about risk control measures and facilities like toilets/lunchrooms
- When proposing changes that may affect health and safety eg roster change, production process, new chemical
- Making decisions about health monitoring, workplace conditions, providing information and training

In fact, when it comes to matters that affect H&S, the PCBU/employer has considerable obligations to consult – this is an obligation that is often forgotten.

The purpose of this sheet is to make it easier for HSRs to keep a record of consultation and any decisions that have or have not been made.

Consultation does not require HSR or PCBUs to put anything in writing but it is good practise and a very useful way of reminding everyone of what should be done.

HSRs do not have to agree to any demands from a PCBU/employer.

You do not have to use this form but other HSRs have found it very useful.

### Reminder:

**WHS Act Section 19 – Primary Duty of Care** – the PCBU must protect the H&S of workers and other persons eg visitors. The PCBU must do this by maintaining and providing a safe and healthy work environment, machinery/equipment, substances; adequate facilities for the welfare of workers; information, instruction, training and supervision and monitor the health of workers and work conditions.

The PCBU has to fulfil all of these obligations, so far as reasonably practicable.

Section 18 defines so far as reasonably practicable. Importantly, cost is only one of the 5 factors that the PCBU must consider when deciding on what is reasonably practicable? Cost is only to be taken into account after the risks and the ways of eliminating or minimising the risks have been considered.

**Provisional Improvement Notice Section 90:** A HSR must consult about the health and safety matter before issuing a Provisional Improvement Notice to a person [section 90(3)]. This record of consultation is useful for that purpose.

The AMWU suggests that you

- keep the original
- give a copy to the employer rep eg PCBU an Officer of the PCBU or Senior Management
- and you may wish to send a copy to your AMWU office

Further advice contact your AMWU H&S officer or HelpDesk 1800 206 316

