

## AT A GLANCE

### YOUR RIGHTS /OBLIGATIONS: WORK HEALTH and SAFETY ACT 2011

Australian Capital Territory, Northern Territory, Commonwealth [Comcare], New South Wales,  
Queensland, South Australia , Tasmania

What a Health and Safety Representative can do <sup>1</sup>	Work Health & Safety Act 2011
<b>Represent workers on health and safety matters</b>	Section 68 (1) (a)
Attend an approved HSR training course, initial 5 days and then one day per year NSW and ACT contact: HOSTA 1300 046 782	WHS Regulation 21  Note: in South Australia HSRs are entitled to 5 days [year 1] then 3 days [year 2] and then 2 [year 3] days.
Paid leave to attend training, the course is to be chosen by HSR, in consultation with Employer/PCBU.	Section 72 The HSR must request the training and the employer/PCBU must ensure the training is provided within 3 months of the request.
<u>Employer must consult</u> with you about health and safety matters that affect member of your workgroup	Section 48 (2)
<u>Direct work to cease</u> that is an imminent or immediate risk	Section 85. After HSR has attended approved HSR training, except in Queensland where this right has been removed by the Newman government
<u>Issue a Provisional Improvement Notice (PIN)</u> requiring the PCBU to take certain actions, after previously consulting with the employer about the H&S issue	Section 90.  Note: after HSR has attended approved HSR training
<u>Request a review of control measures</u> because there has been a change or new risk/hazard has been identified or consultation indicates a review of risk controls is needed	Regulations 38(4)
Time off, with pay to perform your role	Section 70 (2)
Investigate complaints	Section 68 (1) (c)
Monitor the measures taken by the PCBU	Section 68 (1) (b)
Inquire into anything that appears to be a risk to health and safety	Section 68 (1) (d)

<sup>1</sup> Remember Health and Safety Representatives still have rights and obligations as workers.

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Inspect the workplace, after giving reasonable notice and without notice if there is serious risk	Section 68 (2) (a)(i) & 68 (2) (a)(ii)
Accompany an Inspector	Section 68 (2) (b)
Be present at an interview	Section 68 (2) (c) & (d)
Request the establishment of a Health & Safety Committee	Section 68 (2) (e) and 75
Receive information concerning matters that may affect health and safety of members of your work group	Section 68.(2).(f) Note personal or medical information can only be provided with consent of the worker or in a form that does not identify the worker
Request the assistance of any person Note this could be another HSR, union delegate or organiser.	Section 68 (2) (g) In Qld if the person is from outside the workplace 24 hours notice is required
Represent members of another work group if there is a serious risk, or you are asked and the HSR for that workgroup is not found.	Section 69 (2) & (3)
You have <b><i>no duties</i></b> and are <b><i>not personally liable for health and safety matters</i></b>	Section 66 & 68 (4)
Be provided with resources, facilities and assistance	Section 70 (f)
Allow access to workplace to a person assisting you [eg union organiser or health and safety officer]	Section 70

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Your rights as a worker	Work Health & Safety Act 2011
<b>To have your health and safety ensured.</b>	<b>Section 19</b>
Be consulted on health and safety issues that affect you.	Section 47 – 49
Have your union representative involved in the development of a OHS policy, that policy must include arrangements for continuing consultation.	
Be represented by a Health and Safety Representative, which includes standing yourself as a HSR. Determine how the election of HSR & Deputy is to be conducted. Vote in the election of Health and Safety Representative & Deputy.	Section 68 (1) Section 60 Section 61 Section 62
Be provided with safe systems of work.	Section 19 (3) (c)
Be provided with the information, instruction, training and supervision you need to do your job.	Section 19 (3) (f)
Have the employer/operator/PCBU monitor your health and conditions at the workplace and be provided with facilities at work.	Section 19 (3) (g) and (e)
Request that the employer discuss with workers the establishment of a Work Group to elect a HSR.	Section 50 – 51
Have the Union represent you in negotiations for the Work Group {remember union could be delegate or union organiser}.	Section 52 (5)
Have the Union run HSR elections where the majority of workers request this [remember union could be delegate or union organiser].	Section 61 (3)
Refuse to perform work you reasonably think would expose you to a serious risk that is also immediate and imminent.	Section 84
Seek the help of your HSR to direct that unsafe work cease.	Section 85
Have your HSR present at any interview between you and your employer/PCBU or a H&S Inspector.	Section 68 (2) (c)
Protection from discrimination, coercion or threats in relation to a health & safety matters.	Part 6 Division 1

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Request the review of a Health and Safety Inspector's decision that affects you (including if the Inspector decides to do nothing).	Section 223
Change your HSR.	Section 64 (2) (d)
If accommodation is required, such accommodation is to be without risks to health and safety.	Section 19 (4)
<b>Your obligations as a worker</b>	<b>Work Health &amp; Safety Act 2011</b>
Take reasonable care and not wilfully or recklessly engender health and safety of yourself or others.	<b>Section 28 (a) &amp; (b)</b>
Comply with reasonable health and safety instruction.	Section 28 (c)
Cooperate with reasonable health and safety policy and procedures about which you have been notified. Note the employer/PCBU must consult with workers <u>and</u> their HSR about policies and procedures.	Section 28 (d) [consultation Section 47-49]

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What a Union Organiser can do	Work Health & Safety Act 2011
When invited by a worker, negotiate with the workers employer/PCBU when setting up or changing work groups and numbers of HSRs and deputies	Section 52 (5)
When requested by the majority of the workers in a work group, run the election of HSR and Deputy	Section 61 (3)
Negotiate resolution of WHS issues, as a representative of workers [employer organisations can do the same for the employer]	Section 81 (3)
Assist HSRs (when invited by an HSR)	Section 68 (2) (g) Note: in Qld if the Union Organiser is visiting the workplace they need to give 24 hours notice
A trained union official with an Entry Permit may enter a workplace for the purpose of inquiring into a <u>suspected contravention</u> of the law.	Section 117 NOTE: in Qld the official has to give 24 hours notice and in SA the official has to notify SafeWork SA beforehand, which may mean an inspector attends the workplace
A trained union official with an Entry Permit may inspect anything relevant to the <u>suspected contravention</u> ; consult with relevant workers and consult with the employer/PCBU.	Section 118
A trained union official may warn any person who they reasonably believe is exposed to a serious risk to health and safety <b>Note:</b> the union official <u>cannot</u> order a cease work or issue a PIN	Section 118 (1)(e)
A trained union official with an Entry Permit may inspect employee records or make copies of documents at any workplace directly relevant to the suspected contravention. <b>24 hours notice is required.</b>	Section 120
A trained union official with an Entry Permit may enter a workplace <b>to consult on</b> health& safety matters and provide advice to workers who wish to participate in discussions. <b>24 hours notice is required.</b>	Section 121

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#### ***Does your employer consult properly on Health and Safety?***

Surveys of AMWU HSRs indicate that PCBU/employers regularly do not consult HSR and/or workers when making proposed changes to work that may affect health and safety. However PCBUs/Employers are required to consult with their workers and if those workers are represented by a HSR, then the PCBU/employer must involve the HSR.

	Yes/No	Comment
Does your employer/PCBU involve HSRs when consulting about matters relating to H&S [WHS s.48.2]		
Does your employer/PCBU consult with workers and HSR during <ul style="list-style-type: none"><li>• Hazard identification and risk assessment</li><li>• Making decisions about risk control</li><li>• Any proposed changes to work, substances or equipment</li><li>• Policies and procedures</li></ul> [WHS s.49]		
When consulting does your employer/PCBU <ul style="list-style-type: none"><li>• Share information</li><li>• Give HSR and workers time to express their views</li><li>• Take into account views of HSRs and workers</li><li>• Report back on decisions taken?</li></ul> [WHS s.48]		
Does your PCBU/employer follow the procedure for Issue Resolution if there is disagreement about how to resolve a health and safety issue? [WHS s.81 & Reg. 2.2]		