

CONSULTATION

Health and Safety Representatives (HSR) – Role, Functions and Powers

This information bulletin provides guidance for employers and workers on the role of a Health and Safety Representative (HSR) under the [Workplace Health and Safety Act](#). Please refer to Sections 36 to 44 of the Act and Regulation 35J and 35K of the [Workplace Health and Safety Regulations](#) for more detail.

Consultation and worker representation

Part 4, Division 1, Sections 29 to 32 of the Act has been developed to provide a real focus on consultation between the employer and workers on health and safety issues. The Act creates a right for workers to be represented on health and safety matters (refer to NT WorkSafe information bulletin 18.01.02 Worker representation) and recognises the important role HSRs play in the consultative process. HSRs can make a real difference in having safety issues addressed and can help the employer achieve improved health and safety outcomes.

Role of the HSR

The role of a HSR is to represent the workers who elected them on health and safety matters to their employer or in interviews with workplace safety officers. The approved training they are allowed to attend if they wish to is in order to assist and support them in performing this representative role.

A HSR still performs the job they are employed to do but in addition to this they undertake the representative role on behalf of their workmates.

It is not the HSR's role to be responsible for health and safety at the workplace. The primary responsibility for providing and maintaining a safe and healthy workplace rests with the employer

Election of health and safety representatives

A work group may elect a health and safety representative. Please refer to NT WorkSafe information bulletin 18.01.03 Work groups and 18.01.05 Health and safety representative (HSR) election. The HSR must be a member of the work group. The term of office for a HSR is 2 years and a person may be re-elected for further terms provided they remain eligible to be elected.

Functions of health and safety representative

The HSR may exercise their functions in relation to health and safety issues that affect members of their workgroup. The HSR role is to:

- inquire into issues affecting workers;
- bring matters of concern to workers to the attention of management;
- assist workers in their dealings with management and workplace safety officers;
- mediate between workers and management and assist in the resolution of problems.

In appropriate circumstances the HSR can:

- issue a notice of safety hazard (NOSH) requiring the employer to take action to fix a safety problem within a specified time (at least 7 days);
- issue a stop work direction to a worker in a case of serious and immediate risk to the health or safety of the worker.

Notice of safety hazard (NOSH)

Most health and safety concerns raised by a HSR with their employer will be resolved by discussion and agreement and in most situations, the employer will respond appropriately and take action to fix the problem without further action by the HSR being required.

However, under Section 40 of the Act, if the HSR identifies a hazardous situation that has, or is about to, breach the Workplace Health and Safety Act, the HSR may issue a notice of safety hazard (NOSH) to their employer or another person to formally require the problem to be fixed.

The notice is issued to the person who is responsible for the hazardous situation. It must be on the form provided by WorkSafe (FM105 – HSR Notice of safety hazard), identify the hazard and state what the HSR thinks is necessary to eliminate or mitigate the hazard, and stipulate a period within which the action is to be taken (at least 7 days).

If the HSR is not satisfied that the hazard has been eliminated or appropriately controlled, within the time allowed in the notice, the HSR must report the matter to NT WorkSafe.

NT WorkSafe must then arrange for the investigation of the matter by a workplace safety officer and if an unacceptable risk to the health or safety of a worker is found to exist, the workplace safety officer or NT WorkSafe will take any action they consider appropriate to eliminate or mitigate the hazard.

Stop work direction

Under Section 41 of the Act, if a HSR believes on reasonable grounds that a worker is exposed to a serious and immediate risk to the worker's health or safety, the HSR may direct the worker to stop work. This is a direction issued verbally and no form is required.

The HSR must immediately notify the employer if they issue a stop work direction. A direction itself is not binding on the worker or the employer, but if the worker continues to work, or the employer directs the worker to continue, contrary to the direction, the HSR must report the matter to NT WorkSafe.

On receiving a report NT WorkSafe must arrange for the investigation of the matter by a workplace safety officer who will take any action that appears necessary in the circumstances.

Employer duties and obligations to a HSR

Gathering of information by health and safety representative

In order to facilitate the HSR performing their representative role, the Act requires the employer to provide information to a HSR.

At the request of the HSR, an employer must make available any information on health and safety issues affecting the members of the relevant work group. This applies to any information the employer has or could reasonably get. It is an offence for an employer not to comply with such a request and penalties apply.

An employer must not disclose confidential information about the state of health of a particular worker unless the worker consents but documents with identifying information deleted or data that doesn't identify individuals must be provided on request.

An employer must also inform HSRs at their workplace of any incident that is reportable to NT WorkSafe (refer to information bulletin 09.01.04 Incident notification) that occurs at the workplace and penalties apply if the employer fails to do so.

Training obligations and HSR entitlements

A HSR is entitled to attend Health and Representative training which is approved by NT WorkSafe.

If a HSR requests to attend approved training, their employer must allow them to and meet the cost of their attendance. This means their employer must allow them paid time away from work, pay them their usual pay for the time they spend at training, pay for the cost of the course and pay reasonable additional costs of their attendance.

The course of training must be a course conducted or approved by NT WorkSafe and agreed as appropriate by the employer and the HSR, or if they cannot agree, WorkSafe will determine the course the HSR is to be released for.

An employer may facilitate additional training for HSRs to assist them in the performance of the functions but the Act only requires an employer to comply with a request to attend approved training from the same HSR once in each year.

HSR functions performed in paid time

The Act requires an employer to facilitate the reasonable and effective exercise of the HSR's functions by allowing the HSR access to any part of their workplace in which a member of the work group they represent works or goes to in the course of their work.

If a worker wants the HSR to be present at, and to participate, in an interview on a health and safety issue between the worker and the employer, a representative of management, or a workplace safety officer, the employer must permit the HSR to be there and to participate in the interview.

The employer must treat time reasonably spent in carrying out functions as a health and safety representative during ordinary hours of work as time spent at work attracting remuneration at the HSR's ordinary rate of pay. This reinforces the concept that performing the functions of a HSR is a work activity and is performed in paid time. For example: if an employer schedules meeting that the HSR is entitled to participate in (such as Health and Safety Committee meetings) outside the working hours of the HSR they must treat them and pay them as though they had called them in to work.

Facilities and assistance to health and safety representatives

As a HSR's role is as a representative of the workers in their work group, they will need to be accessible to them and to be able to communicate regularly with them and pass on information arising from consultation with the employer. Regulation 35K of the Workplace Health and Safety Regulations 2008 requires an employer to provide a HSR with:

- facilities to enable meetings with the work group;
- the use of a noticeboard to display information for the work group and;
- if reasonably practicable, use of meter or other standards monitoring equipment.

These facilities must be provided at each workplace that is part of the work group of the HSR. In this case, where the work group is at more than one workplace, the HSR must be provided with transport between each workplace, or reimbursement of travel expenses.

In addition, at the workplace at which the HSR themselves works, they must be provided with:

- access to a telephone and, where available, internet and email facilities; and
- access to word processing and photocopying facilities.

List of HSRs to be kept

The Act requires the employer to keep a record of all HSRs and to display a current list of HSRs at every workplace under the employer's control.

HSR ceasing to be a HSR

The HSR ceases to hold office if:

- their term of office comes to an end and they are not re-elected, or
- they are no longer a member of the work group that elected them (the HSR must be a member of the work group), or
- they are disqualified by NT WorkSafe from office as a HSR, or
- they resign as a HSR to the employer in writing, or
- a majority of the members of the HSR's work group agree to terminate their term of office.

NT WorkSafe may, on application by an employer, disqualify a person from office as a HSR if it is satisfied that the person has misused powers as a health and safety representative. This doesn't mean that the HSR made an honest mistake in going about their role, NT WorkSafe would need to be satisfied that the HSR misused their powers before taking this action.

Penalties

A range of penalties applies where the provisions of the Act are not complied. Please refer to Information [09.01.07](#).

For further information contact NT Worksafe on 1800 019 115 or go to www.worksafe.nt.gov.au