

CONSULTATION

Discrimination against Workers

This information bulletin provides a guide in regard to discrimination against a worker under the [Workplace Health and Safety Act](#) 2007, Part 10 Section 93.

It is worthwhile referring to *Objects of the Act* Part 1 Section 3 when discussing Discrimination against workers.

Some of the objects of this Act are:

- to achieve for the Territory the highest possible standards of occupational health and safety; and
- to achieve as far as possible elimination of avoidable risks, control and mitigation of unavoidable risks, to the health or safety of workers; and
- to encourage cooperation through consultation between employers and workers, and associations of employers and workers.

Workplace safety officers, health and safety representatives (HSRs), and members of health and safety committees all contribute to the process that make these objectives possible to achieve. It is therefore important not to impede these workers' representatives in their efforts to improve health and safety conditions in the workplace.

Discrimination against workers

The Act states that an employer must not discriminate against a worker or a prospective worker on the ground that the worker or prospective worker:

- is or has been a health and safety representative or a member of a health and safety committee or exercises; or
- has exercised power as a health and safety representative or a member of a health and safety committee; or
- assists or has assisted, or gives or has given any information to, a workplace safety officer, a health and safety representative or a member of a health and safety committee; or
- raises, or has raised, an issue of concern about health or safety with the employer, a worker, a workplace safety officer, a health and safety representative or a member of a health and safety committee.

An employer discriminates against a worker or prospective worker on a particular ground if the ground was the predominant reason for the discrimination.

What are the possible effects of discrimination?

The reactions of individual workers will vary according to the nature of the discrimination. It is possible that workers who are discriminated against will experience some of the following effects:

- stress, anxiety, sleep disturbance;
- panic attacks or impaired ability to make decisions;
- incapacity to work, concentration problems;

- loss of self-confidence and reduced output and performance;
- depression or a sense of isolation and in extreme cases, risk of suicide;
- physical injury; and/or
- reduced quality of home and family life.

Seek advice

If you feel you are being discriminated against seek advice from your supervisor or grievance officer, Health and Safety Representative (HSR), human resources officer or union official. All people are entitled to natural justice, are protected by confidentiality provisions in law and may be able to take action if the complaint is not handled properly.

Keep a record

Make a detailed record of what happened - place, date, time, people and what was said or done, date the matter was raised and with whom. Ensure that your records are accurate.

This information may be useful later, particularly if more formal steps need to be taken.

Penalties

An employer who discriminates against a worker or prospective worker commits an offence that carries a maximum penalty of 200 penalty units or imprisonment for 12 months.

If, in proceedings for an offence against this section, the employer is found to have discriminated against a worker or prospective worker, it will be presumed that the employer did so on the ground alleged in the instrument of charge unless the employer establishes the contrary on the balance of probabilities.

If an employer is convicted of an offence against this section, the court may, as well as imposing a penalty, order the employer to compensate the worker or prospective worker or to take other action specified by the court to remedy the contravention.

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