

## CONSULTATION HEALTH & SAFETY REP ELECTION - QLD

<p><b>BASIC ISSUES:</b>                  Duty to consult                  (section 46-49 WHS Act 2011)</p>	<p>PCBU has a duty to consult with workers and HSRs about matters that directly affect them. If more than one person in the workplace has a health and safety duty they must consult all other people with the same duty.</p>
<p><b>CONSULTATION, COOPERATION, COORDINATION</b>                  (section 46-49 WHS Act 2011)</p>	<ul style="list-style-type: none"> <li>PCBU must give workers who are or are likely to be directly affected by a matter relating to health and safety an opportunity to express their views or raise issues. If a HSR is representing workers, the consultation must involve them.</li> </ul>
<p><b>WORKERS ENTITLEMENTS</b>                  (section 50 - 51, 72 - 75, 83 - 84 WHS Act 2011)</p>	<ul style="list-style-type: none"> <li>Elect a health and safety representative</li> <li>Request the formation of a health and safety committee</li> <li>Cease unsafe work</li> <li>Have health and safety issues resolved in accordance with an agreed issue resolution procedure</li> <li>Worker must not be discriminated against for raising health and safety issues</li> </ul>
<p><b>ELECTION OF A HSR FOR A WORK GROUP</b>                  (section 50 - 57 WHS Act 2011)</p>	<ul style="list-style-type: none"> <li>A request must be made for the election of an HSR by the work group, the PCBU must comply with that request</li> <li>The PCBU and workers will determine the number and composition of the work group(s)</li> <li>Number of HSRs and deputy HSRs</li> <li>Workplace(s) to which the work group(s) apply</li> </ul>
<p><b>POWERS AND FUNCTIONS OF THE HSR</b> (section 68-69 WHS Act 2011)</p>	<ul style="list-style-type: none"> <li>Inspect the workplace</li> <li>Accompany a WHS inspector during an inspection</li> <li>Be present at a interview with a worker and PCBU or an inspector about health and safety issues</li> <li>Request a health and safety committee be formed</li> <li>Monitor compliance measures by the PCBU</li> <li>Represent the work group in health and safety matters</li> <li>Investigate complaints from members of the work group</li> <li>Inquire into any risk to the health or safety of workers in the work group</li> <li>A HSR is not personally liable for anything done or not done in good faith while carrying out their role</li> </ul>

<p><b>PENALTIES FOR OBSTRUCTING DISADVANTAGING A HSR</b> (section 104-115 WHS Act 2011)</p>	<ul style="list-style-type: none"> <li>• A person must not dismiss, terminate a contract, refuse to hire or detrimentally alter the position of a worker or treat less favourably because they</li> <li>• Proposed to be a member of a safety committee</li> <li>• Proposed to be a HSR</li> <li>• Exercise the above powers</li> <li>• Assist a person to exercise the above powers</li> <li>• Raise health and safety issues with the union, PCBU, inspector or members of the safety committee or any worker</li> <li>• Are involved in resolving a health and safety issue</li> <li>• Acted to get another person to comply with their duties</li> <li>• A person is also engaging in discriminatory conduct if they terminate or refuse to enter a commercial arrangement with another person for these reasons.</li> <li>• It is unlawful to engage in, threaten or organise to take any of the above actions, or to ask or encourage another person to do this.</li> </ul> <p>These provisions create both criminal and civil causes for action in the event of such conduct.</p>
<p><b>PENALTIES FOR ENGAGING IN DISADVANTAGING A WORKER OR HSR</b> (section 104 - 115 WHS Act 2011)</p>	<p>In addition, they do not preclude actions being taken under other relevant state and federal laws that deal with discrimination including the Anti Discrimination Act 1991 and the Fair Work Act 2009 (cth). These penalties require the PCBU to prove that they did not disadvantage the worker or HSR.</p> <p><b>Penalties:</b></p> <ul style="list-style-type: none"> <li>• Fair Work Act \$33,000 for the corporation</li> <li>• Fair Work Act \$ 6,600 for the individual</li> <li>• Work Health and Safety Act 2011 \$100,000</li> </ul>
<p><b>ASSISTING THE HSR</b> (section 81 WHS Act 2011)</p>	<p>A HSR can ask anyone for assistance to resolve a health and safety matter. If this is a union official they will not be required to exercise their powers under his/her right to enter a work place.</p>