

Health and Safety Representatives Rights and Powers (remember as an HSR you still have your rights and obligations as a worker)

OHS reps - your rights What you can do; the rights you have

Which section of the Victorian OHS Act or Regulations

Occupational (or workplace) health and safety is covered by health and safety laws - in Victoria, this is the *Occupational Health and Safety Act (2004)*.

However, parts of other laws can also apply. These are:

- *Fair Work Act* [includes the health and safety laws in the definition of workplace rights - section 340: workplace rights apply to Health and Safety laws];
- Common law: everyone has a common law right to refuse to perform immediately unsafe work;
- Workers compensation laws; and
- Privacy laws, Anti-discrimination laws.

What is a health and safety representative?

An OHS rep (or an HSR) is a person elected by the workers to represent them on any and all occupational health and safety matters. To be an effective rep, that person must be supported by the members of the Designated Work Group. A good and effective rep listens to and consults with their members.

Reps should also have the right to:

- **Consult with:**
 - Members of their DWG
 - Other OHS reps
 - The union
 - WorkSafe

This enables them to be able to properly represent the interests of the members of their DWGs and as a representative on the health and safety committee.

- **Participate in meetings:**
 - with your DWG members
 - with other reps to caucus on all OHS matters. This may be reps from the same employer, from the same workplace but different employers (eg labour hire, contractors), or a network of reps across the local area or an industry sector.
 - of the health and safety committee

<http://www.ohsrep.org.au/law-rights/rights/ohs-reps-rights/ohs-reps-your-rights>

Last amended June 2015

Represent workers, in their Designated Work Group, on health and safety matters.

Training

Attendance at approved HSR training.

Initial 5 days then 1 day refresher per year. 67 (1)

HSR must make request more than 14 days from the date of the course. 67 (2)

The course is to be chosen by HSR, in consultation with employer. 67 (3)(c)

The employer must provide paid leave to attend the training, and must also pay any costs associated with the HSR attending the approved training. 67 (4)

If employer refuses to allow the HSR to attend a chosen course, the HSR may ask WorkSafe to make a determination. 67 (5)

Contact your union or the VTHC Health and Safety Training Centre on 03 9663 5460

Employer must consult with you about health and safety matters that may affect members of your Designated Work Group (DWG). Specifically when:

- identifying/assessing hazards or risks
- making decisions about control measures
- making decisions on facilities
- making decisions about procedures for resolving OHS issues; consulting with employees; monitoring health or workplace conditions; providing information and training
- determining membership of the health and safety committee
- proposing changes to the workplace; plant, substances or conduct of the work

Take issues to the employer or employer representative for resolution according to agreed procedures – if none agreed, then procedures as prescribed in the Regulations

Direct work to cease - where that work is an imminent or immediate risk.

Issue a **Provisional Improvement Notice (PIN)** requiring the employer to take certain actions, after previously consulting with the employer about the H&S issue.

Request a review of control measures because there has been a change or new risk/hazard has been identified or consultation indicates a review of risk controls is needed.

Inspect **any part** of a workplace at which a member of the DWG works:

- at **any time** after giving the employer or its representative reasonable notice

- **immediately** in the event of an incident/situation involving an immediate risk to the health and safety of any person

Accompany an Inspector.

Request the establishment of a Health & Safety Committee

Be present at an interview with inspector or employer and workers [you need workers' consent].

Have the right to seek, whenever necessary, the assistance of any person.

Note this could be another HSR, a fellow worker, union delegate or organiser.

Monitor the measures taken by the employer.

Enquire into any health and safety risk

You have no duties and are not personally liable for health and safety matters.

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.

Have access to information concerning hazards, health and safety of DWG members - *Request your employer to provide you with this information.*

Be allowed time off, with pay to exercise your powers/perform your role.

Be provided with resources, facilities and assistance.

Employer must allow access to workplace to a person assisting you [eg union organiser or health and safety officer].

Be a member of the health and safety committee (so far as is reasonably practicable)

Be contacted when an inspector visits your work group.

Be given, by the inspector, a copy of the Entry Report

Apply for a review of a range of inspector's decisions (or non-decisions) - eg on PINs; on issue of Improvement or Prohibition Notices; etc

Section 58 (2) - Term is 3 years (or less)

Section 67

Sections 35 & 36
Regulation 2.1.5
(how HSRs are to be 'involved')

Section 58(2)(d) and Section 73
Regulation 2.2.4

Section 74

Section 60

Regulations: in the specific hazard regulations e.g. Regulation 3.3.1, 3.2.9 & 3.3.8 etc.

Section 58 (1) (a) (i) (ii)

Section 58 (1)(b)

Section 58 (1)(c) and Section 72 (Committees)

Section 58 (1)(d)

Section 58 (1)(f) - See Section 70 if person is from outside the workplace

Section 58 (2)(b)

Section 58 (2)(c)

Section 58 (3)

Section 59

Section 69 (1)(a)

Section 69 (1)(d)

Section 69 (1)(e)

Section 70

Section 72

Section 102

Section 103

Part 10 of the Act
Review of Decisions

In **Disability Services**, Clause 43 of your Enterprise Agreement provides details on how your workplace OHS rights should be implemented.

In **Mental health Services**, Clause 55 of your Enterprise Agreement provides details on how your workplace OHS rights should be implemented