

OHS Legislation: The Old and the New

OHS Act 1989	Work Safety Bill 2008	
<i>Designated Work Groups [DWG]</i>	<i>Worker Consultation Unit [WCU]</i>	
Mandatory that they are established to accommodate the HSR and assure that HSR is accessible to all members of the DWG	Mandatory that employer establishes WCUs and must involve the workers in determining the form taken by the WCU. Factors contributing to structure of WCU include number of workers, geographic location of workplaces, and workers' working hours including shift work. Pattern of work – PT, casual, short term	
<p><i>Employers Duty</i> to consult unions, employees in regard to any proposed changes to formation of DWG; Composition of DWG must be available to all members of group and posted w/in 14 days of formation; There will be 1 HSR for each DWG s/elected by all the members of the group; Employer must display the notice of the elected HSR ASAP</p> <p>HSR is selected for a 2 year term but may be re s/elected for consecutive 2 year terms;</p>	<p><i>Employer's Duty</i> to consult workers and to decide how that consultation will occur in regard to identifying any perceived risks at the workplace; any work safety issues ; any measures to manage identified risks; adequacy of facilities; any proposed changes affecting work safety; <i>How</i> workers will be consulted will be decided by the employer and the workers in the unit via the HSR or the Health and Safety Committee; employer must indulge in meaningful consultation with workers by sharing information and allowing workers the opportunity to contribute their views or concerns and to give fair consideration to those views. Consultation occurs by: consulting with the HSR [if there is an HSR]; with the health and safety committee [A/A]; in accordance with a</p>	<p>There is no reference to <i>union involvement</i> in the HSR election process in the OHS Act 1989 and that has occurred through agreement between the DET/ACT government and the AEU as a matter of convenience and common practice.</p> <p>There is no reference to union involvement at all in the 2008 Bill. There is reference to "Authorised Representatives" who are located in "registered organizations" and officers of unions would fall into that category. But only officers with completed OHS training will be able to access the premises. The consultative process seems very limited and appears to weigh heavily in the favour of the employer. That may be appearance only as an informed workforce may well be in a position to demand genuine consultation. Any bias</p>

	previously agreed procedure; or consulting directly with the workers.	should be tempered in the <i>regulations</i> and <i>codes of practice</i> being drafted.
<p>HSRs [role] may inspect entire workplace if there has been an accident or dangerous occurrence in immediate past; if there is an immediate threat of accident or dangerous occurrence; if the HSR has given employer or delegate reasonable notice of intention to inspect; HSR may accompany an [external] inspector on inspection; may represent/advocate on behalf of members of DWG if there is no OHS Committee; may examine any records of the OHS Committee; may investigate any specific complaints from employees of DWG in regard to OHS issues; may with employee's consent attend an interview between the employee and an inspector/the employer/delegate; may access any information regarding any OHS risks to any member of the DWG.</p> <p>HSR may be disqualified by the Registrar; IF: requested on reasonable [written] grounds** by employer/delegate; subcontractor; involved union; employee/member of DWG. [** HSR has acted with intent to cause harm to employer; has acted unreasonably or capriciously; has disclosed information acquired from the employer to another person for purposes "...not connected with the exercise of a power..." of an HSR].</p>	<p>HSR [role] is to represent the WCU in relation to work safety; to inform employer of potential risks or dangerous occurrences at the workplace; to inform employer of any/all work safety matters directly affecting the workers; HSR may inspect entire or part of the workplace; may issue a PIN; may exercise emergency powers; [must consult employer in attempt at resolving the issues <i>before</i> issuing a PIN or exercising an emergency power]</p>	<p>The discrepancies evident between the 1989 Act and 2008 Bill are to be covered by associated <i>regulations</i> and <i>codes of practice</i> currently being drafted as supplements to the Bill.</p>

<p>OHS Committees will be established if there are consistently more than 50 employees at the workplace; if the HSR or an involved union request the employer establish an OHS committee;</p> <p>OHS Committee consists of the number of members agreed to between employer and involved unions or if no agreement then an equal number of members representing member interests and employer representatives to uphold management interests; process of selection of members must be in keeping with the regulations set out in the agreement;</p>	<p>Health and Safety Committee [HSC] to facilitate co-operation on work safety issues between employer and workers; to assist employer to consult workers on proposing and developing changes to work or other policies that may impact on work safety; to assist employer to resolve work safety issues; to keep the workers informed of procedures related to work safety; if more than 50% of workers in the WCU request election of Health and Safety Committee the <i>employer</i> must arrange for the elections to occur; CEO may direct elections for a health and safety committee if there are reasonable grounds showing that workers are performing hazardous work or establishment of a committee will improve work safety;</p>	<p>The <i>involved unions</i> referred to in the 1989 Act are allegedly [commissioner, government] to be read into '<i>worker representatives</i>' from July 2009</p>
--	---	---