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PCBU Interaction with HSRs and Health & Safety Committee

Our WHS article last week dealt with the benefits of consultation and the mandatory consultation requirements in sections 46 to 49 in the WHS Act. Those sections set out the overall principles and requirements of WHS consultation in a workplace.

However the WHS Act also contains sections that cover some points where the PCBU interacts with HSRs and/or the Committee. This article deals with the specific details of what a PCBU must do that are found in section 70 (HSRs), and section 79 (Health & Safety Committee).

You may care to check whether the requirements below are being complied with in your workplace.

HSRs and PCBUs – Section 70 WHS Act

A PCBU must:

- consult with any HSR about WHS matters that affect their workgroup,
- confer with a HSR, so far as reasonably practicable, whenever reasonably requested by that HSR, for the purpose of ensuring the health and safety of the workers in the HSR's work group,
- allow a HSR to have access to information that the PCBU has about:
 - (a) hazards (including associated risks) at the workplace affecting workers in the HSR's work group, and
 - (b) the health and safety of the workers* in the HSR's work group,
- allow a HSR, with the consent of a worker that the HSR represents, to be present at an interview concerning work health and safety between the worker and a SafeWork Inspector, or the PCBU or the person's representative**.
- allow a HSR, with the consent of one or more workers that the HSR represents, to be present at an interview concerning work health and safety between a group of workers, which includes the workers who gave the consent, and an inspector, or the PCBU, or the person's representative.
- provide any resources, facilities and assistance to a HSR that are reasonably necessary or prescribed by the regulations to enable the HSR to exercise his or her powers or perform his or her functions under the WHS Act,

- allow a person assisting** a HSR for the work group to have access to the workplace if that is necessary to enable the assistance to be provided,
- permit a HSR for the work group to accompany an inspector during an inspection of any part of the workplace where a worker in the work group works,
- provide any other assistance to the HSR for the work group that may be required by the regulations,
- allow a health and safety representative to spend such time as is reasonably necessary to exercise his or her powers and perform his or her functions under this Act,
- pay a HSR his usual pay for any time spent for the purposes of exercising his or her powers or performing his or her functions under the WHS Act.

Health & Safety Committees and PCBUs - Section 79 WHS Act

A PCBU must:

- allow each member of the health and safety committee to spend the time that is reasonably necessary to attend meetings of the committee or to carry out functions as a member of the committee.
- pay a health and safety committee member his usual pay for any time spent on attending Committee meetings or carrying out his functions as a member of the Committee.
- allow the health and safety committee for a workplace to have access to information that the PCBU has relating to:
 - (a) hazards (including associated risks) at the workplace, and
 - (b) the health and safety of the workers at the workplace.

Note:

* **Worker's personal or medical information** – section 70 and 79 (4) WHS Act

“The PCBU must not allow an HSR, or a Health & Safety Committee member, to have access to any personal or medical information concerning a worker without the worker's consent unless the information is in a form that:

- (a) does not identify the worker, and
- (b) could not reasonably be expected to lead to the identification of the worker.”

** Person's Representative – See definition of “representative” in Section 4 the WHS Act

“*representative*, in relation to a worker, means:

- (a) the health and safety representative for the worker, or
- (b) a union representing the worker, or
- (c) any other person the worker authorises to represent him or her.”

31st July 2018