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# Participating in Effective Health and Safety Committees

A guide for committee members

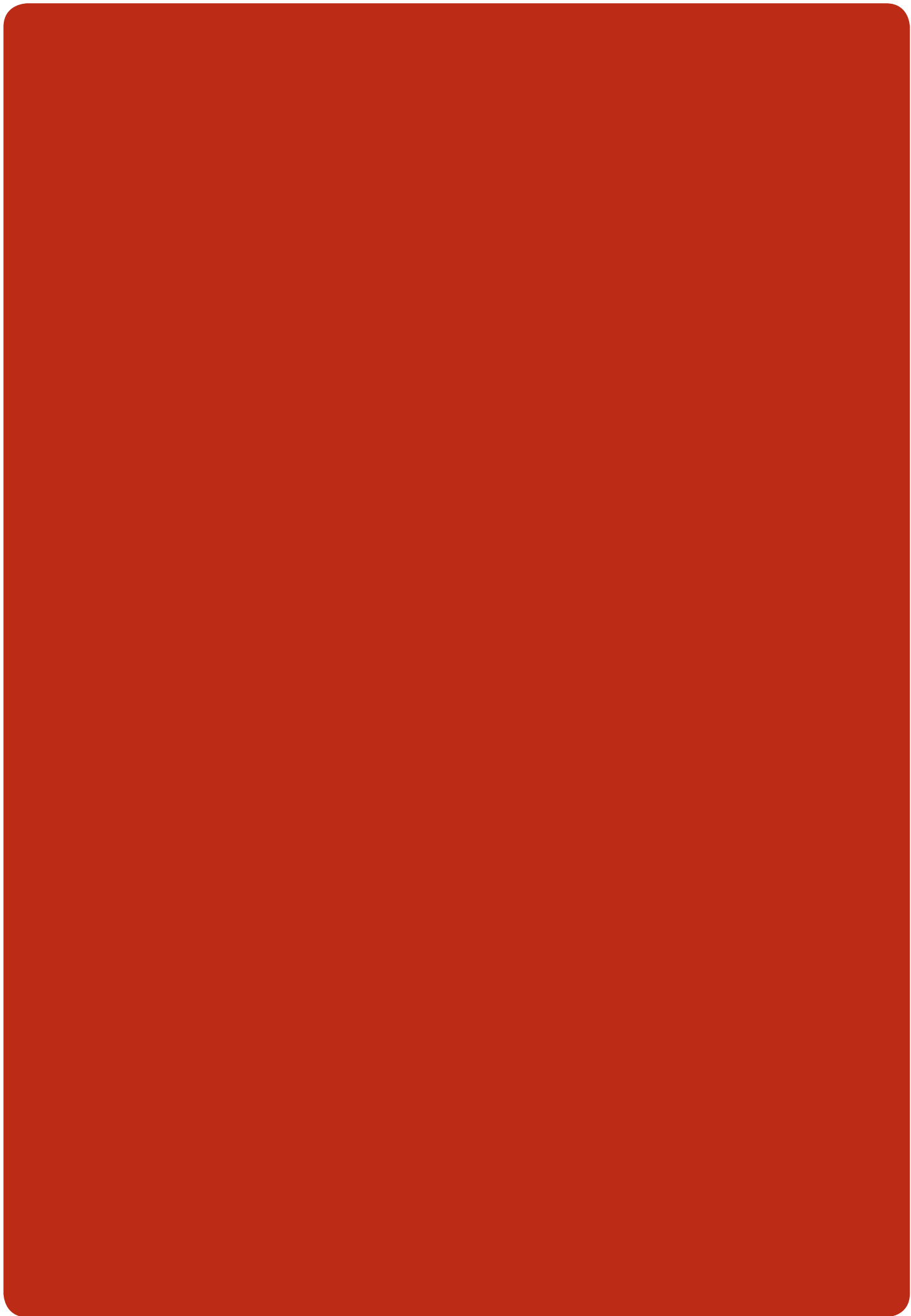
OHS Workplace Consultative Arrangements - *A guide to Commonwealth Legislative Provisions* 

Health and Safety Representatives Handbook 

Safety at Work - Your responsibilities as an Employer 

Health and Safety Management Arrangements Guide 

**Participating in Effective Health and Safety Committees** 



# Participating in effective health and safety committees

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## Publication details

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## Introduction to the guide

One of the objectives of the *Occupational Health and Safety Act 1991* (the Act) is to foster a cooperative consultative relationship between employers and employees on the health, safety and welfare of employees whilst at work.

A health and safety committee (HSC) is a mechanism that can promote this relationship. As a member of a HSC you can play a pivotal role in managing OHS in your organisation. While it is not essential for each HSC member to be an expert on health and safety, members should be adequately trained and given information which enables them to perform their duties.

This guide is to assist you as a HSC member to make an effective contribution to OHS.

The guide outlines the role of HSC members and their responsibilities, and gives practical advice on making HSCs work effectively.

Note that this guide is not a substitute for the legislation. The publication, *OHS Workplace Consultative Arrangements*, provides an outline of the legislative provisions concerning workplace OHS consultative arrangements which are summarised in Appendix 2.



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## Legislative basis for establishing health and safety committees

The Act says that there are situations which dictate when an employer must establish a health and safety committee (HSC):

- the employer normally has fifty or more employees; and
- there are normally fifty or more employees in a particular workplace, and either a health and safety representative (HSR), or a majority of the employees in the workplace, make a written request that the employer establish such a HSC.

A HSC is established and operates according to the health and safety management arrangements (HSMAs) which apply to that organisation. The HSC generally has members representing the employers and their employees. The number of members who are representing employers must not exceed the numbers who represent employees. The Act also states that an employer, in consultation with the employees, or any other people, can establish:

- subcommittees of the HSC; or
- other committees concerned with aspects of health and safety.

The legislation broadly defines the functions of workplace HSCs. These functions are intended to promote an environment in which the employer and employees work cooperatively to ensure the health and safety of employees at work.

Specific functions of the HSC are to:

- help the employer to develop, implement, review and update prevention activities;
- improve cooperation between the employer and employees on OHS matters; and
- help the employer to distribute OHS information (in appropriate languages).

The legislation also allows workplace HSCs to carry out a variety of other functions agreed between the employer and the HSC.

## The role of the health and safety committee

The HSC is a formal structure which helps employers and employees discuss and resolve OHS issues in the workplace. Both employers and employees should use the HSC as a valuable OHS resource. The HSC helps the employer to develop and implement ways to protect employees from risks to their health or safety.

HSCs can help to:

- form an OHS plan and agreement;
- implement written procedures for work processes, and give priority to processes identified as particularly hazardous;
- develop, implement and support hazard management programs;
- carry out regular workplace hazard inspections;
- review OHS policies, procedures and/or training, for example develop and/or review training packages for employees such as OHS training at induction;
- assess accident or dangerous occurrence records, injury statistics, and other information important in forming workplace prevention programs;
- make recommendations on the OHS impact of changes in the workplace;
- obtain current information on health and safety hazards, and discuss the implications of these hazards in the workplace; and
- be a forum for discussion and resolution of OHS issues in the workplace.

The Act does not impose any specific obligations on a HSC member. But members generally join a HSC with the intention of improving health and safety in their workplace.

Members should actively participate in and assist the HSC where they can.

Note that a member cannot be held liable in civil proceedings because of the way they carried out their OHS duties, or failed to carry out their OHS duties.

## The role of health and safety committee members

While employers are primarily responsible for ensuring the workplace is safe and healthy, you can play a key role in helping your employer achieve this outcome. As a HSC member you can help develop, implement and review policies and procedures in your workplace. You can also identify the need to update these policies and procedures, particularly when new hazards in the workplace become apparent.

Employer representatives ideally include senior or line managers who have the authority to make decisions about improvements to health and safety and have a good knowledge of the organisation. Members representing employee interests on the HSC are chosen by employees. They may be HSRs but are not required to be under the Act.

As a HSC member, you should:

- ensure you attend meetings - if you are not committed to the principle of health and safety do not become a member, because you will waste your time and others;
- actively participate in meetings ;
- represent the views of employees; and
- keep up-to-date with health and safety developments.

## Employer's responsibilities towards health and safety committees

Employers have certain duties towards HSCs to enable them to function effectively. Employers have a responsibility to allow members of the HSC adequate paid time off work to perform the functions of the HSC.

Information which the employer has relating to risks to health and safety at the employers workplace or regarding plant/substances used at the workplace must be made available to the HSC. Exceptions to this are;

- any information for which the employer claims legal professional privilege;
- or information of a confidential medical nature relating to an employee, unless the affected employee has given permission for the information to be given to the HSC;
- or the information is provided in a form which prevents identification of the affected employee.

## HSR and their link with health and safety committees

The roles of the workplace HSC and the HSR differ but are meant to complement each other.

To distinguish between their roles, HSCs tend to address broad organisational issues in accordance with their terms of reference. HSRs tend to concentrate their efforts on addressing more specific designated work group (DWG) issues. If a HSC exists, a HSR can examine the records of the HSC. Where HSRs are not members of the HSC, it is important that members of the HSC who represent employer interests communicate with HSRs to ensure they are aware of workplace issues affecting employees.

If there is no HSC, HSRs have the power to perform some of the duties of a HSC for the members of the respective DWG (see section on powers of HSRs in Appendix 2).

## Ensuring your health and safety committee is effective

### Introduction

The Act outlines how to establish HSCs. HSCs can lose effectiveness for several reasons. The impact of an ineffective HSC on the health and safety of a workplace can be significant. For example, issues of concern may not be dealt with, or adequately addressed. This puts employees' safety in jeopardy. This guide offers some suggestions on how to make HSCs function more effectively.

### Senior management representation

Have appropriate senior management representatives on your HSC, so that decisions can be approved and actioned without needing to refer them for approval.

Approving decisions 'on-the-spot' encourages HSC members because they can see their recommendations being implemented. This gives a clear sign their work is helping to improve and protect health and safety in the workplace.

### Frequency of meetings

The Act does not prescribe how often a HSC should meet; however, the frequency of meetings can be specified in the HSMAs. Frequent meetings are appropriate when issues arise that should be dealt with quickly, for example, an accident/incident investigation. Set a regular date and time and encourage HSC members to stick to that timing. If any HSC members are part-time employees or have other responsibilities, try to plan meetings around their schedule so you minimise absenteeism at meetings.

## Member commitment

All HSC members should understand and be firmly committed to the aims and objectives of the HSC. If a HSC member is disinterested or frequently misses meetings, this should be discussed with them. If no remedy is found, the member can be asked to consider being replaced.

## Health and safety committee size

Although largely driven by the size of a workplace, the membership of a HSC should be kept to a minimum. Six to 12 members is a good size. HSCs that are too large will be less effective. Consider splitting up a large HSC into several smaller HSCs. Ensure a hierarchy still exists to action decisions. You might consider sub-committees to address a specific task. This can mean a quick resolution to problems.

## Member training

Sometimes members of the HSC will have training in health and safety from their role as an OHS adviser/manager or as a HSR. OHS training is not compulsory, but members must have information and skills to deal with issues in a proper manner. HSC members need enough training to feel comfortable in undertaking their role.

## Information dissemination

The flow of information between HSC members and employees should be regular and timely. This shows staff the organisation is improving health and safety by addressing problems which encourages employees to take an interest in their own health and safety and that of their work colleagues. Distribute minutes of HSC meetings to all HSC members and make them available to staff. Make arrangements for feedback meetings with employees affected by HSC decisions.

## Effective meeting practices

Effective HSCs have sound meeting practices and processes. Some of these practices and processes are outlined below.

### Health and safety committee objectives:

- should be clear and concise; and
- help to keep the HSC focused and on track.

### Chairpersons need:

- good communication and negotiation skills;
- to be able to control the meeting;
- to ensure the HSC resolves all the issues raised;
- to keep the meeting to time; and
- to ensure the minutes are formally recorded and made available to all staff.

### Health and safety committee members need to:

- try and make their attendance at HSC meetings on time and a priority;
- ensure they comment on agenda items where they believe they can add to the discussion;
- actively participate in the business of the HSC;
- encourage open and frank discussion within the HSC so the different interests and issues of members are dealt with; and
- nominate a proxy if unable to attend a meeting.

### An agenda should be:

- distributed to all members prior to the meeting;
- manageable in size - if it is too long, increase the number of meetings accordingly; and
- focused on OHS issues.

### The minutes of the meetings should:

- be clear and concise;
- identify the issues raised and who has responsibility for follow up; and
- identify a date problems should be resolved by.

### The venue should:

- be organised well in advance of meetings;
- have adequate space and seating; and
- have the necessary equipment for the meeting.

# Appendix 1 - Overview of the Act, associated regulations and codes of practice

## Introduction

The Commonwealth OHS legislation includes the Act, associated regulations and codes of practice. The Act came into effect on 6 September 1991.

The Safety, Rehabilitation and Compensation Commission (the Commission) and Comcare administer the legislation. It requires employers to establish workplace processes and a working environment where employees may work in a safe manner and without risk to their health, safety and welfare.

Employers under the Act include Commonwealth departments and agencies, Commonwealth authorities and private sector organisations licensed to self-insure under the Safety Rehabilitation and Compensation Act 1988 (often known as non-Commonwealth licensees).

## Objectives of the legislation

The objectives of the legislation are to:

- secure the health, safety and welfare at work of employees of the Commonwealth, Commonwealth authorities and of non-Commonwealth licensees;
- protect people at or near workplaces from risks to their health and safety caused by their work or workplace;
- ensure expert advice is available on OHS matters affecting employers, employees and contractors;
- promote an occupational environment that is adapted to health and safety needs;
- foster a cooperative, consultative relationship between employers and employees on occupational health, safety and welfare of employees;
- encourage and assist employers, employees and other persons on whom obligations are imposed under the Act to observe those obligations; and
- provide for effective remedies if obligations are not met, through the use of civil remedies and, in serious cases, criminal sanctions.

## Who has responsibilities under the legislation?

The following parties have responsibilities under the legislation. The primary responsibility for a healthy and safe workplace lies with the employer, assisted by other parties:

- employers;
- employees;
- manufacturers;
- suppliers;
- installers;
- the Commission; and
- Comcare.

Employers have a duty to take all reasonably practical steps to protect the health and safety at work of their employees. This duty extends to contractors of the employer in relation to matters over which the employer has control (or would have had control except for an agreement otherwise).

Schedule 2 of the Act provides for a dual civil and criminal penalty regime of enforcement. Under the dual regime, breaches of the Act will generally be dealt with in civil proceedings, however criminal prosecutions are available for more serious breaches of the Act.

## Regulations

Regulations give extra provisions to help the operation of the legislation and, together with the Act and codes of practice, form 'the legislation'. Failing to comply with relevant regulations may be a breach in a general duty of care under the Act.

Two sets of regulations have been made under the legislation. The Occupational Health and Safety (Safety Arrangements) Regulations 1991 cover:

- HSR elections;
- advice, investigations and enquiries including the format for a provisional improvement notice (PIN);
- notification of incidents and dangerous occurrences; and
- other miscellaneous issues.

The Occupational Health and Safety (Safety Standards) Regulations 1994 cover:

- Part 1 – Hazard identification, risk assessment and risk control
- Part 2 – Competency requirements and certification standards for users and operators of industrial equipment
- Part 3 – Occupational noise
- Part 4 – Plant
- Part 5 – Manual handling

- Part 6 – Hazardous substances
- Part 7 – Confined spaces
- Part 8 – Storage and handling of dangerous goods
- Part 9 – Major hazard facilities
- Part 10 – Electricity
- Part 11 – Driver fatigue
- Part 12 – Construction work
- Part 13 – Falls from heights of 2 metres or more
- Part 20 – Definitions

### Codes of practice

Codes of practice are a source of expert information about safe work practices in specific circumstances. A code of practice approved by the Minister under the legislation:

- is a practical guide to people with a duty of care under the legislation;
- should be followed, unless there is another way of achieving the same or better standards of health and safety; and
- is admissible as evidence in proceedings under the Act and regulations.

## Appendix 2 - Overview of workplace OHS consultative arrangements

### Introduction

One of the objectives of the legislation is to foster a cooperative, consultative relationship between employers and employees on the health, safety and welfare of employees at work.

The legislation emphasises consultation and cooperation between employers and employees over OHS issues by requiring establishment of HSMAs, DWGs, HSRs and HSCs (including their respective functions and powers).

An outline is provided below on the workplace OHS consultative arrangements under the Act. More information is available in the publication, *OHS Workplace Consultative Arrangements*.

### Health and safety management arrangements

HSMAs are required to be developed by all employers in consultation with employees, or if requested, an employee representative. The Act requires certain matters to be included in HSMAs.

### What is an employee representative?

Under the Act, the term employee representative has a particular meaning. An employee representative means, in relation to an employee, a registered organisation or an association of which:

- the employee is a member; or
- another employee in the DWG to which the employee belongs, is a member.

The employees who are members of the employee representative organisation or association must be qualified to be members of that organisation or association, by virtue of the work those employees do.

### What the Act says about designated work groups

A designated work group (DWG) is a group of employees in a workplace (or part of a workplace) established so that the employees within the group can be represented by a HSR. There can be one or more DWGs, and the following factors must be considered when establishing or varying DWGs:

- number of employees;
- nature of each type of work performed by the employees;
- number and grouping of employees who do similar sorts of work;
- workplaces (and areas within workplaces) where each type of work is performed;
- nature of any risks to health and safety in the workplace; and
- overtime and shift arrangements.

If the structure is not perceived to be effective, the employer, an employee or an employee representative (if requested to by the employee) can enter into consultations to have it varied.

Employers are required to prepare and keep up to date a written list of all DWGs which must describe the categories of employees in each DWG. The list must be available to employees and Comcare investigators at all reasonable times.

## Health and safety representative selection

There can be one HSR and one deputy HSR (DHSR) for each DWG. Only employees in the DWG who are not disqualified under section 32 of the Act are eligible to be HSRs or DHSRs. The Act provides a process for selecting an HSR that must be followed. However, the HSR position may not be filled if there are no nominations for the position. Note that only some of the provisions apply to DHSRs, as a DHSR position is optional. HSMA may however provide for DHSR positions in DWGs.

If there is a HSR vacancy, the employer must notify the employees in the relevant DWG in writing.

HSRs can be selected unanimously by DWG members or elected. Where they are unanimously selected, the HSR must inform their employer in writing as soon as practicable after the selection.

If an election process is required, the employer must conduct, or arrange for the conduct of an election at the employer's expense. All employees within the DWG are entitled to vote in the election process. An election for the position of HSR must be conducted in accordance with the regulations if either 100 employees in a DWG or a majority of employees normally in the DWG (whichever is less) requests it.

After a HSR is selected or elected, the employer must, within a reasonable time, notify employees of the DWG in writing of the name of the new HSR. The employer must also keep an up to date list of all HSRs of DWGs, and make the list available to all employees and investigators.

A HSR is elected for two years, or for the period specified in the HSMA and can be elected for a further term of office. The Act has provisions for resignation and disqualification of HSRs and filling casual vacancies.

A newly elected HSR must attend a training course accredited by the Commission. The employer must let the HSR attend the training during work time without loss of pay or entitlements.

## Health and safety representative powers

The following is a list of HSR powers under the Act. These are discussed in more detail in the HSR Handbook.

HSRs can:

- inspect the workplace of members of the DWG if;
  - there has been a recent accident or dangerous occurrence; or
  - where there is an immediate threat of an accident or dangerous occurrence; or
  - after giving the employer reasonable notice of the inspection.
- make a request to an investigator, to Comcare or the Commission that an investigation be conducted at the workplace (by contacting the state/territory Comcare OHS manager);
- accompany an investigator during an investigation at the workplace;
- represent the members of the DWG in health and safety consultations with the employer if there is no HSC;
- examine the records of the HSC;
- investigate employee health and safety complaints;
- with the consent of the employee, attend any interview concerning health and safety at work between the employee and an investigator or the employer;
- be assisted by a consultant at a workplace or provide a consultant with information, provided the employer or Comcare has agreed in writing to the provision of assistance or information. It should be noted that an employer is not liable for expenses or remuneration incurred during a consultant's activities;
- request consent from an employee that a consultant be present at an interview with the HSR between the employee and investigator or the employer;
- access employer's information relating to any health and safety risk to any employee at any workplace under the employer's control. It should be noted that an employer can claim legal professional privilege on health and safety information they have. A HSR cannot gain access to confidential information or information protected by legal professional privilege;

- issue a provisional improvement notice (PIN);
- request Comcare or an investigator to investigate a matter that is the subject of a PIN if the notice has not been complied with within the specified period and an investigation has not been requested by the employer;
- initiate emergency stop-work procedures where there is an immediate threat to the health and safety of employees and the supervisor is unavailable;
- request Comcare to conduct an investigation if the HSR cannot agree with the supervisor on an appropriate course of action to remove a threat to the health and safety of employees performing work;
- appeal to the Australian Industrial Relations Commission (AIRC) against an investigator's decision to vary or cancel the PIN; and
- ask Comcare to institute proceedings for offences against the legislation where proceedings have not been commenced within 6 months of the alleged breach of the legislation.

Note the legislation does not impose any obligations on HSRs to exercise any of these powers. HSRs are not liable under civil proceedings for exercising or not exercising any of the powers outlined in the legislation.

## Appendix 3 – Other sources of information

### Other sources of information

While this guide gives you an overview of OHS matters, do not consider it the only source of information available. Other sources of information include:

- the Occupational Health and Safety Act 1991;
- the Occupational Health and Safety (Safety Arrangements) Regulations 1991;
- the Occupational Health and Safety (Safety Standards) Regulations 1994;
- approved codes of practice;
- specific documents provided by your organisation which detail appropriate practices and procedures for the effective management of OHS at the workplace, for example:
  - HSMAs;
  - OHS hazard policies and procedures (for example, prevention strategies aimed at reducing the incidence of occupational overuse syndrome or manual handling injuries); and
  - any other policies and procedures which have been developed as part of the workplace HSMAs.
- your organisation's OHS manager and/or adviser;
- publications produced by Comcare which are available on Comcare's website; and
- unions that have members in the workplace that you represent.

### Website details

A copy of this publication is available from Comcare's internet site at [www.comcare.gov.au](http://www.comcare.gov.au) or phone 1300 366 979

## Your OHS contact details

Name: \_\_\_\_\_

Position: \_\_\_\_\_

Organisation: \_\_\_\_\_

Location: \_\_\_\_\_

Postal address: \_\_\_\_\_

Phone number: \_\_\_\_\_ Fax number: \_\_\_\_\_

Email address: \_\_\_\_\_

Name: \_\_\_\_\_ Position: \_\_\_\_\_

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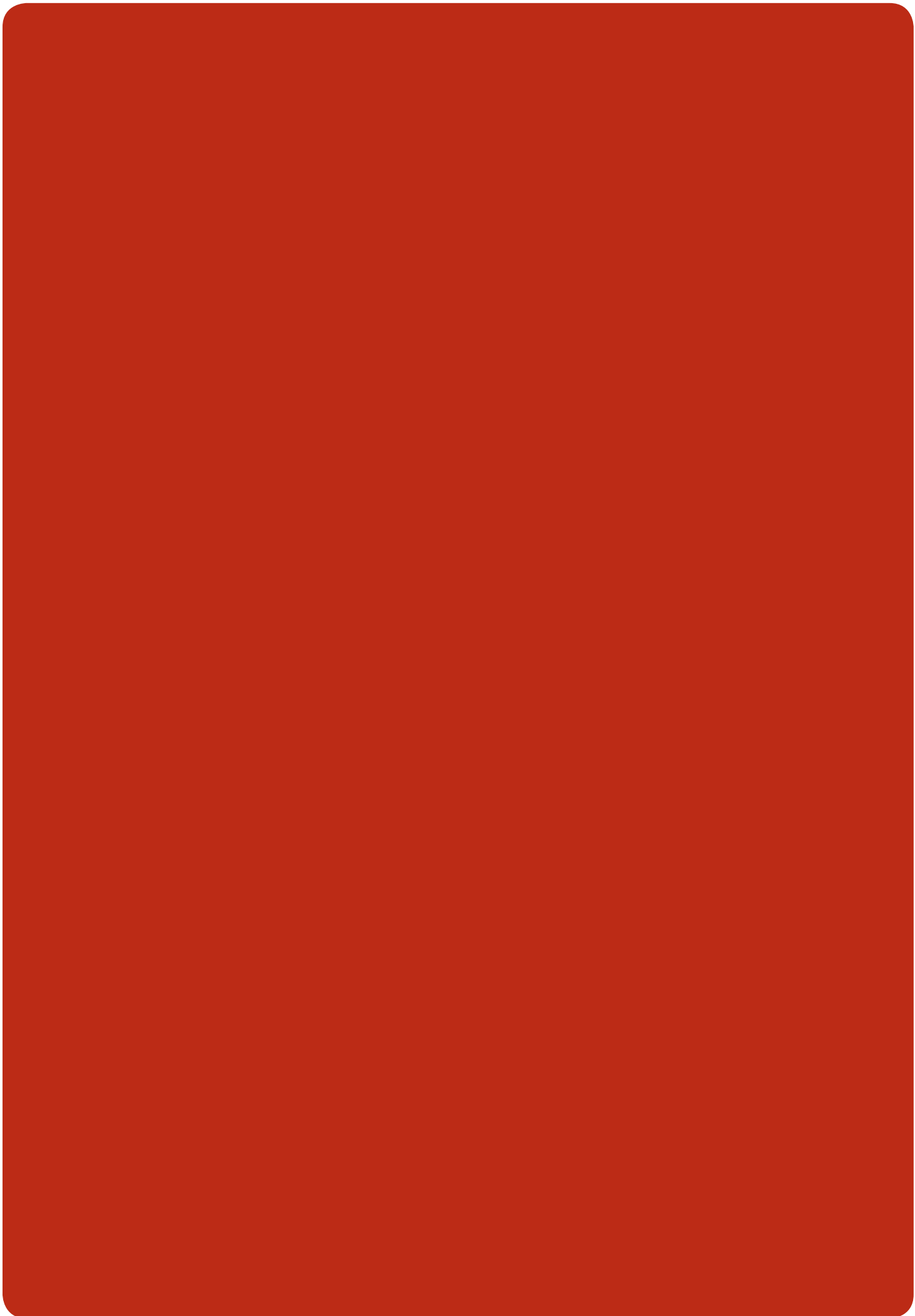
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Phone number: \_\_\_\_\_ Fax number: \_\_\_\_\_

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