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Health and Safety Management Arrangements 2010



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1 INTRODUCTION

These Health and Safety Management Arrangements 2010 (these Arrangements) have been made in accordance with the Occupational Health and Safety Act 1991 (the Act). These Arrangements supersede the Arrangements made in 2007. These Arrangements may be replaced when the Model Work Health Safety Act is enacted.

The Commissioner of Taxation makes these Arrangements following consultation with employees and employee representatives.

The ATO is committed to having a culture where the health and safety of employees and contractors is of fundamental importance. These Arrangements recognise the responsibilities of the ATO, as the employer, and of all employees in regard to health and safety in the workplace.

These Arrangements demonstrate the commitment by the ATO to engage and consult with all employees and employee representatives and DERs on health and safety matters.

1.1 DEFINITIONS

In these Arrangements:

'Consultation' – The ATO will use the definition provided by Comcare in its Fact Sheet developed pursuant to Section 16A(1) of the Act or, if no such definition is provided, 'consultation' means the sharing of information and discussing issues before a decision is made. See Appendix A for the Comcare definition provided at the time of commencement of these arrangements.

'Employee representatives' has the same meaning as given in the Act.

'Health and safety management system' refers to the ATO's system for the management of health and safety issues. It includes:

Having clear policies relating to OH&S which are communicated and easily accessible by employees

The implementation of strategies and systems which enable the monitoring and review of performance against health and safety targets

Having processes for the identification and assessment of risks to the organisation

'Health and Safety Representatives' means the individuals who are elected by employees to represent their interests in regard to health and safety matters. This includes deputy HSRs, unless specified otherwise.

'Corporate roles' are a range of positions that assist the Tax Office to achieve a safe and healthy workplace. These roles include HSRs and HSRCs, First Aid Officers, the

National First Aid Officer, Site First Aid Coordinators, Wellbeing Site Representatives, Harassment Contact Officers and the various types of Wardens.

'Designated Work Group' has the same definition as in Section 24 of the Act.

'Site Leadership' is the term referring to the Site Management arrangements in each ATO site.

'Main site' - This is the term which refers to the primary site where DWGs are established. These are generally sites in city centres or metropolitan areas. Smaller or regional sites attached to these are known as satellite sites. This [link](#) contains details of all the DWGs including those in main sites and satellites sites.

1.2 ABBREVIATIONS

- HSMA - Health and Safety Management Arrangements
- OH&S - Occupational Health & Safety
- FAC - First Assistant Commissioner
- DER - Directly Elected Representative(s)
- HSR - Health and Safety Representative(s)
- HSRC - Health and Safety Representative Coordinator(s)
- HCO - Harassment Contact Officer
- DWG - Designated Work Group(s)
- NHSC - National Health and Safety Committee
- H&S - Health and Safety
- SES - Senior Executive Service
- INR - Incident Notification Report
- PIN - Provisional Improvement Notice
- AC - Assistant Commissioner
- EP&H - Employment, Policy & Health

2. PURPOSE

These Arrangements articulate the consultation framework that will operate in the ATO in relation to health and safety matters throughout the ATO and enable employee input and participation in decisions regarding health and safety matters. These Arrangements shall be implemented in accordance with the principles as required by the Act.

3. COMMENCEMENT, REVIEW AND VARIATION OF ARRANGEMENTS

These Arrangements commence on the day stipulated by the Commissioner of Taxation. The Arrangements will be in place for two years from that date. The ATO will consult on the development of new Arrangements as required by the Act. If new Arrangements have not been finalised before the two year period has elapsed these Arrangements will remain in place until the new Arrangements are finalised.

3.1 REVIEW

The mechanisms used to review the Arrangements will include (but are not limited to):

- Having the HSMA review as a standing agenda item at the NHSC and Sub-plan H&S Committees for discussion about the process and progress of a review once this is established and
- Commencement of consultation with employees and employee representatives, in accordance with the Act. This may be done by:
 - Informing employees of the review via News Extra, an Employee Communications email or other communication mediums
 - Seeking feedback from employees via a designated mailbox
 - Providing opportunities for employees to provide verbal feedback
 - Having a process to document, capture and consider feedback in developing new or updated Arrangements.

3.2 VARIATION

These Arrangements may be varied at any time after consultation with employees and their representatives. These Arrangements may be varied at the request of employees or as deemed necessary by the ATO. This will include variations arising from legislative and/or statutory changes.

The following process will be undertaken upon receiving a request to vary the Arrangements:

- Request is made to the NHSC via:
 - NHSC secretariat or
 - Sub-plan representatives on the NHSC or
 - DERs on the NHSC or
 - Employee representatives on the NHSC
- The NHSC will include any request to vary these Arrangements as an agenda item at the next available NHSC meeting, or the request may be considered out of session if deemed appropriate by the NHSC
- The NHSC will determine whether a variation to these Arrangements may be required

- Any variations being considered will be made available to employees for comment via an Employee Communications email and/or the intranet
- The consultation period for considering variations shall be two weeks, unless a longer period is required as determined by the NHSC
- The NHSC secretariat will email the person requesting the variation advising them of the outcome of their request once this is confirmed
- All employees will be informed of any variation to these Arrangements via News Extra or an Employee Communications email and/or the intranet

4. LEGAL FRAMEWORK

The ATO and its employees shall abide by the obligations stated in the following: Occupational Health and Safety Act 1991, Regulations and approved Codes of Practice (the Act)

Safety, Rehabilitation and Compensation Act 1988 (the SRC Act)

Occupational Health and Safety (Safety Arrangements) Regulations 1991

Occupational Health and Safety (Safety Standards) Regulations 1994

Occupational Health and Safety Code of Practice 2008 (OHS Code of Practice)

These Arrangements must be read in conjunction with the Act.

Nothing contained in these Arrangements shall prevent in any way the ATO, its employees or their representatives from complying with the requirements of the aforementioned Acts or other relevant legislation or industrial agreements.

5. CONSULTATIVE FRAMEWORK

5.1 COMMITMENT TO CONSULTATION

The ATO is committed to consultation in relation to the health and safety of its employees as outlined in the Act. The ATO will take into account the severity of risk to its employees when determining the timing and degree of consultation. The ATO will consult with employees prior to the implementation of any significant change.

The office will facilitate employee representation on health and safety committees at both corporate and sub-plan levels.

The ATO will issue an annual report to all employees that details ATO performance in relation to health and safety and includes future proposals, inviting comments and suggestions before determining health and safety priorities for the office.

5.2 FRAMEWORK

Health and safety committees are established in accordance with section 34 of the Act. The functions of health and safety committees in consultation with employees are to:

- contribute to the development and maintenance of the ATO's health and safety management system
- develop and implement measures designed to protect the health and safety of employees at work
- consult on matters affecting prevention activities, injury management;
- review and update measures used to protect employees' health and safety;
- facilitate co-operation between the employer and employee in relation to OH&S matters;
- disseminate information to employees relating to health and safety at work and;
- such other functions as are agreed upon between the employer and the health and safety committee

Health and Safety committees are to be run in accordance with the Committee Management Practice Statement PS CM 2006/06.

5.2.1 National Health and Safety Committee

The National Health and Safety Committee (NHSC) shall be constituted under the Act, as the principal health and safety committee for the ATO. It will operate as a strategic advisory committee and will assist the ATO to meet its duty of care with respect to health and safety matters through effective consultation and representation.

The NHSC shall be sponsored by the First Assistant Commissioner (FAC), ATO People.

All members of the Committee must be ATO employees. Committee members should be attending at least 3 of the quarterly meetings per year. It is expected that NHSC members will attend NHSC meetings that will be convened specifically to design future strategies unless there are unforeseen circumstances that prevent members' attendance.

Membership of the NHSC

In accordance with the Act the number of employer representatives on a health and safety committee will not exceed the number of representatives of employees.

The composition of the NHSC will consist of

- (i) Employer Representatives who will be
 - a committee chair appointed by the FAC ATO People, and

- a senior representative from each sub-plan
- (ii) Representatives of employees will be
 - Two (2) CPSU representatives,
 - Two (2) ASU representatives, and
 - Two (2) DERs.

Responsibility & Accountability

The NHSC has a strategic and assurance focus for the whole of the ATO in relation to health and safety. It will act in an advisory capacity and perform the following functions:

- oversee and review the ATO's performance with respect to the maintenance of the health and safety management system;
- monitor and review the ATO's Designated Work Group structure, the vacancy rates of HSRs and ensure there are processes in place for HSR training
- monitor the hazard reporting system and ensuring that there are processes in place for workplace inspections to be undertaken;
- generate ideas to contribute to the maintenance and improvement of health and safety of employees at the ATO including the removal of barriers to systemic issues;
- contribute to the development of health related policy and practice statements and related documents;
- provide direction and advice to sub-plans with respect to health and safety matters;
- seek to resolve occupational health and safety matters escalated from Sub-plan H&S Committees or Site Leadership Forums; and
- providing the Health and Safety Barometer to the Executive forums within the ATO and give advice on strategies that may assist in addressing issues and trends arising from the ATO Executive discussions of the Health and Safety Barometer.

5.2.2 Sub-plan committees for Health & Safety

There will be a Health and Safety (H&S) committee for each sub-plan. The chair of each Sub-plan H&S Committee shall be an officer from the SES from that sub-plan. In accordance with the Act the number of members of a health and safety committee chosen by the employer to represent the interests of the employer must not exceed the number of members chosen by the employees to represent the interests of employees. Representatives of employees shall be from the area that the committee represents. All representatives must be employed by the ATO.

These committees, which are established in accordance with section 34 of the Act are responsible for assisting the ATO to resolve issues that impact on health and safety of employees in that sub-plan. The functions of Sub-plan H&S Committees are to:

- assist the ATO to integrate good health and safety practices with the core business activities of the sub-plan including the conduct of risk assessments by

- developing and implementing a sub-plan health and safety plan which includes objectives and targets. Outcomes are to be reviewed and action plans modified so they are aligned to corporate health and safety priorities;
- participating in the health and safety audit program and action recommendations arising from the audit;
- monitoring statistics (when available) and reporting progress against the sub-plan health and safety plan, corporate health and safety priorities, and actions arising from the health and safety audit program and compliance with statutory obligations to the sub-plan employees and the NHSC each quarter;
- inform employees in their sub-plan of discussions at NHSC meetings
- review and update measures used to protect employee's health and safety;
- facilitate co-operation between the employer and employee in relation to OH&S matters;
- establish an HSR/DER network within the sub-plan as a means of providing support to HSRs and DERs

5.3 DESIGNATED WORK GROUPS

Designated Work Groups (DWGs) are established, and where necessary may be varied, in accordance with section 24 of the Act.

The following points provide guidance for the modification and establishment of DWGs:

- DWGs are site based and associated shopfronts may be part of a main site DWG;
- Remote sites are established as separate DWGs;
- DWGs include unoccupied areas within ATO responsibility e.g. basements, foyers, stairs etc;
- the membership of a DWG will include all employees who work in the DWG and will also include employees who temporarily move from the site (including leave) for a period not exceeding 3 months;
- typically, a DWG will comprise 100 – 150 employees dependent upon the nature of the work, the risk profile of the work and the location of the employees;
- while ideally a DWG will be contained to one floor in a site, DWGs may span across two or more floors of a site if there are similarities in the nature of the work being undertaken on the different floors.
- each DWG should have an elected Health and Safety Representative. DWGs may have a deputy HSR depending upon the risk profile of the work and the number of employees, as per Section 33(1) of the Act.

A listing of all DWGs and HSRs will be maintained by the ATO and made available to all ATO employees via the intranet.

5.3.1 Establishing and Varying Designated Work Groups

Existing DWGs may require variation, and new DWGs may need to be created, due to the movement of employees and/or the occupation of new floors or sites, or a change in work type, among other possible reasons.

The establishment or variation of DWGs requested by employees and employee representatives will require consultation with affected employees and their representatives (when requested to by the employees).

Site Leadership Forums will be responsible for establishing DWGs in conjunction with the HSRCs at that site and the National HSR Network Manager (ATO People).

The National HSR Network Manager will provide advice to the Site Leader and the site's HSRC to ensure that DWGs are established in accordance the principles articulated in the Act and these Arrangements.

Where a new DWG needs to be established, consultation will be undertaken with the HSRs, employees and their representatives (when requested to by the employees) to determine the new DWG structure.

Once employee consultation has taken place, further consultation will be conducted by the Site Leader with affected sub-plans and if necessary, the Site Leadership Forum. Once this further consultation has occurred the Site Leader will make a decision to determine whether deputy HSRs are required to represent the DWG and communicate the decision.

Where the ATO initiates a variation to a DWG, consultations must occur with the HSRs, employees and employee representatives (when requested to by the employees) of the affected DWG.

6. Site Leadership and Site Safety Forums

The ATO recognises that management of health and safety issues at the site level is a key element in providing a safe and healthy workplace. Site Leadership plays an important role in the maintenance of health and safety for all DWGs in, and attached to, the main site.

Site Leadership Forums have the following responsibilities with respect to health and safety matters:

- establish and maintain a program of workplace inspections;
- ensure through regular communication with the HSRs and HSRCs that workplace inspections are being conducted;
- provide advice to the Site Leader on the establishment and variation of DWGs in the site and;
- on a quarterly basis review the Site Safety Forum minutes and provide these to the NHSC.

Site Safety Forums are established as a sub-committee of the Site Leadership Forum and they will have the following membership as a minimum:

- the Site Leader
- HSRC(s) as the chair
- HSRs at that site
- Property Operations and
- Sub-plan or business line representatives.

All HSRs may attend the Site Safety Forum, however not all HSRs may need to attend if there is adequate representation and the issues they have been dealing with are tabled and discussed.

The chair may invite other persons to attend the Site Safety Forum meetings if the Chair decides that such attendance will assist the forum in their duties. The Site Safety Forum is to be administered and chaired by the HSRC. The Site Safety Forum is to convene quarterly (as a minimum).

The Site Safety Forum is to:

- review the quarterly site safety reports and develop these into a consolidated report. This report will include a summary of unresolved issues identified during the inspections and actions taken to resolve them. It will be sent to the Site Leader for comment before being tabled and discussed at the Site Leadership Forum, where this forum may, in turn, escalate issues to the appropriate forum or function.
- ensure timely remedial action is taken when there are unresolved issues that have been raised in the quarterly inspection reports
- engage with and promote health and safety initiatives
- work with Sub-plan H&S Committees and integrate good health and safety practices with the core business activities in the site.
- To avoid any doubt, Site Leadership Forums and Site Safety Forums are not Health and Safety committees established under section 34 of the Act.

7. RESPONSIBILITY & ACCOUNTABILITY

7.1 SENIOR MANAGEMENT

The role of ATO senior management in the provision of a safe and healthy workplace is to:

- set the overall health and safety policy and annual priorities for health and safety and allocate appropriate resources
- develop, monitor and review of the ATO health and safety management system
- include health and safety initiatives in sub-plan, Business and Service Line plans
- communicate policy requirements
- apply a consistent and systematic risk management approach to health and safety management
- ensure that the necessary resources are provided to maintain a healthy and safe working environment
- provide leadership and model behaviours that foster a positive health, safety and wellbeing culture
- be proactive in assessing risks to the health and safety of employees and the workplace
- support and resource the effective management of health and safety issues and ensure an outcome or resolution within a reasonable timeframe
- communicate and report on the progress and/or outcomes of investigations or actions taken with respect to OH&S within the senior management structure and to employees under their control

7.2 MANAGERS/TEAM LEADERS

Managers/team leaders are to:

- take all steps reasonable to promote and maintain a safe and healthy work environment
- implement and monitor systems to prevent, identify and control workplace hazard in conjunction with the health and safety risk management framework
- actively support employees to apply safe and healthy work practices
- liaise with HSRs and assist and accompany them to undertake workplace inspections to identify, assess and manage work hazards
- sign off on workplace inspections after considering the recommendations of the report and providing the opportunity for further discussion if requested
- report and investigate workplace incidents and work related illness in consultation with the HSRs
- ensure all employees, including contractors are aware of their occupational health and safety obligations and undertake their operations in a safe manner
- promote a positive health, safety and wellbeing culture reinforcing the importance of prevention and early intervention by ensuring this approach is promoted in team meetings, communication, induction, annual appraisal and mid year performance development discussions, performance management and learning opportunities
- keep up to date with information relating to the management of health and safety in the workplace, and educating themselves about their obligations under the Act as representatives of the ATO
- ensure they understand their role and responsibilities in relation to OH&S matters
- discuss and work with employees within their reporting line with corporate responsibilities to provide appropriate time and resources enabling them to undertake the requirements of their corporate role

7.3 EMPLOYEES

The role of the employee is to

- take personal responsibility for their health and wellbeing and all reasonable and practical care to not endanger their health and safety, or that of other employees, visitors or clients of the ATO
- make proper use of all equipment as intended, and follow agreed safe working practices
- inform their manager and/or HSR of incidents/potential hazards in the workplace and complete an INR

All employees are responsible and accountable for meeting the legislative requirements set out in the Act and the directions and requirements detailed in relevant Corporate Management Practice Statements.

7.4 NATIONAL HSR NETWORK MANAGER

This role is managed as a portfolio by a member of the Health & People Management team. Tasks carried out under this role are done so as required, as this is not a full time position.

The National HSR Network Manager:

- Supports the HSRs and HSRCs through the provision of information and advice relating to running elections and filling vacancies for these roles
- Supports Site Leadership through the provision of information and advice relating to the operation of the Site Leadership and/or Site Safety Forums
- Acts as the point of contact for the HSR network and Site Leadership for enquiries or advice required from Health & People Management.
- Is to provide written responses to the HSR network and Site Leadership when enquiries are sent via the HPM_Prevention mailbox.
- Reports to the Health & People Management leadership team and the ATO Executive on a quarterly basis on the status of the HSR network and the progress of elections and backfilling of vacancies.

7.5 CORPORATE ROLES

Employees considering a corporate role must inform their manager of their interest and discuss the requirements of the role and work with their manager.

Where practicable, employees will be restricted to undertaking one corporate role at any given time. This is

- To avoid potential conflicts of interest relating to the use of information obtained in each corporate role
- To avoid conflicting time commitments of those undertaking the roles
- To ensure critical roles such as Wardens and First Aid Officers can be fulfilled simultaneously during emergency situations

The following roles cannot be undertaken at the same time by a single person:

- HSR and HSRC
- HSR and HCO
- First Aid Officer and any Warden role
- The role of representing an employer and the role of an employee representative
- The role of a DER and the role of an employee representative on the same committee/forum

Corporate role holders who are undertaking multiple roles have 8 weeks from the commencement of these Arrangements, to determine which corporate role they will retain before having to notify Health & People Management or Workplace Diversity (if in a HCO position). Allowances will be adjusted accordingly to reflect the changes.

Where no advice is received from the employee within the specified timeframe and:

- (i) they are a HSR - they will continue in the HSR role and will be removed from other roles
- (ii) they are not a HSR - the Assistant Commissioner (AC), EP&H will decide the role that the employee will continue in.

It is acknowledged that in smaller or regional sites, it may be impractical to have single roles held, and exceptions for these sites may be considered.

7.5.1 Directly Elected Representatives

Directly Elected Representatives (DERs) are elected by, and represent the interests, of all ATO employees. **Appendix B** provides information about the election process for DERs.

Deputy DERs are responsible for acting in place of and/or assisting the DERs when requested to do so. Two (2) deputy DERs will be elected on the NHSC.

DERs and deputy DERs are required to undertake the HSR accredited training course as determined by the ATO and the ATO training specific for HSRs which will be conducted following the accredited training.

The role of the DER is to:

- represent the interests of all employees from a:
 - ATO wide perspective (if a member of the NHSC); or
 - sub-plan perspective (if a member of the Sub-plan H&S Committee);
- attend and actively participate in health and safety related meetings as required;
- work with employees, HSRs, management and employee representatives to protect the health and safety of ATO employees, clients and contractors;
- use the health and safety management system when assessing possible hazards and risks arising from change initiatives or from current work practices and discuss these with management;
- request that a deputy replace them when they are unable to attend a committee meeting; and
- ensure deputy DERs are informed of the progress of OH&S matters and meeting discussions and outcomes.
- NHSC DERs are encouraged to liaise with sub-plan DERs to inform and communicate corporate information and discussions, particularly in regard to the NHSC.

7.5.2 Health and Safety Representative Coordinators

A HSRC will be appointed for each main site in addition to the HSRs that are elected for that site's DWGs. HSRCs must be located at either the main site or within close proximity of the main site. Close proximity would generally mean in the same vicinity i.e. within walking distance.

HSRCs will be appointed following a selection process open to all employees in the main site covered by the role. The selection process will be co-ordinated by ATO People.

Refer to **Appendix C** for information about the Health and Safety Representative Coordinator Selection Process.

The role of the HSRC is to:

- complete and consolidate information for the quarterly site safety report and forward this to the Site Leader for comment. This report will then be tabled and form part of the Site Safety Forum discussions.
- chair meetings of the Site Safety Forums;
- conduct HSR elections in their site as and when required by the Act or these Arrangements;

- monitor vacancies in DWGs and call for nominations;
- ensure all HSRs receive accredited training by liaising with Health & People Management;
- coordinate and assist in the delivery of HSR and other occupational health and safety training as required with assistance from Health & People Management;
- coordinate HSR meetings in their site
- liaise with the HSRs to reinforce the importance of having inspection programs carried out;
- where there is no HSR on site, facilitate the process to arrange for another HSR to undertake the inspection;
- ensure the maintenance of an up to date list of HSRs within the site and display the list prominently within the workplace. (The National HSR Network manager (ATO People) will maintain the list and make it available via the intranet); and
- take steps necessary to ensure that HSRs are paid and/or allowances ceased in a timely fashion.

HSRCs will be appointed to their role for a period of two years.

Refer to [Appendix C](#) for details on circumstances when a HSRC may be removed from the role before the term of office has expired.

8. LEARNING AND DEVELOPMENT

The ATO will ensure that relevant instruction in health and safety policy and procedures is included in induction programs for all employees including managers and contractors.

The National HSR Network Manager (ATO People) along with the HSRs will be responsible for arranging Comcare accredited training for all DERs, HSRs and HSRCs within 3 months of their election (or appointment, in the case of HSRCs). If an employee has completed the 5 day accredited training within the last 3 years and has continued in the HSR role during this time they are only required to undertake the 2 day refresher program.

As the Comcare HSR training is only available in capital cities and a limited number of other locations, anyone nominating for an HSR, deputy HSR, HSRC or DER position must be available to travel away to their nearest capital city for the necessary training. The travel costs of HSRs attending this training are to be met by the business service lines (BSLs) which make up their respective DWGs.

Employees undertaking DER, HSR or HSRC roles will also participate in ATO specific HSR training which will be conducted following the accredited training.

National and Sub-plan committee members and HSRCs will be provided with training/skilling to assist them in undertaking their role. This may include HSR training for employee representatives.

9. HEALTH AND SAFETY REPRESENTATIVES

Each DWG must have an elected HSR. DWGs may have a deputy HSR depending upon the risk profile of the work and the number of employees. HSRs will be elected for a period of two years.

If a HSR leaves their DWG permanently OR is away from their DWG for longer than 3 months, that position in that DWG is considered vacant and an election must be carried out. The election must be conducted as soon as possible after the HSR's duration of absence is known to minimise the time in which the DWG will remain vacant.

In addition to exercising their powers under sections 28 and 29 of the Act, functions and additional accountabilities are outlined below. The information in this part applies equally to HSRs and deputy HSRs.

9.1 ROLES AND RESPONSIBILITIES

The HSR is to:

- co-operate with employees, management and employee representatives to protect the health and safety of ATO employees, clients and contractors;
- ensure information relating to health and safety at work is provided to employees in their DWG;
- liaise with employees in the DWG about their health and safety and represent their interests in having a safe and healthy work environment in consultation with BSL management
- ensure employees in the DWG are included in consultation processes;
- ensure comments from members of the DWG are fed back to the appropriate forum/committee;
- use the health and safety risk management system when assessing possible hazards and risks arising from change initiatives or from current work practices and discuss these with management;
- inspect the whole or any part of the workplace at any time on a quarterly basis with the participation of the local or nominated manager in the DWG where the inspection is being carried out and report findings to the HSRC;
- report findings of the inspections to the Site Safety Forum and actively communicate, consult and co-operate with their Site Safety Forum on hazards associated with the site;
- investigate complaints made by employees of the DWG concerning health and safety;
- understand their powers under the Act and exercise these appropriately;
- consult with employees, managers and the HSR network when issues are raised and work collaboratively to contribute to the development of mitigation strategies or resolutions before lodging a PIN
- ensure the escalation processes as detailed in Section 11 of these Arrangements is undertaken to resolve issues before consideration is made to lodging a PIN
- prepare detailed and specific information and documentation to Comcare and the responsible person at the ATO in instances where a PIN is being lodged
- examine and investigate potential hazards within their DWG and any incidents that may occur

- prepare for and attend HSR sub-plan network meetings
- liaise with HSRs within their site and assist their HSRC(s)
- publicise their role within their site
- Section 30 of the Act requires that the employer must permit the health and safety representative such time off work, without loss of remuneration or other entitlements, as is necessary to exercise the powers of a health and safety representative. HSRs are to talk to their managers and negotiate and discuss requirements in order to exercise the powers of the HSR role. The HSR should discuss their duties with their manager.

9.2 SKILLS AND ATTRIBUTES

The HSR role desires a person with particular skills and attributes outlined below.

This guide is provided to employees considering seeking election for this important role. HSRs should have:

- the ability and commitment to communicate and work co-operatively with employees, management and employee representatives to achieve timely resolution of issues;
- negotiation and conflict resolution skills;
- the ability to acquire knowledge of health and safety principles;
- the ability to identify potential OH&S risks and hazards associated with the DWG;
- the ability to learn risk management principles and apply them to a health and safety context; and
- the ability to understand the OH&S legislation, the ATO HSMA and related policies and procedures.

9.3 HOLDING ELECTIONS AND HANDOVER ARRANGEMENTS

The following principles apply when electing HSRs:

- an employee in each DWG is formally elected into the position of HSR following agreed processes (outlined in **Appendix B**)
- if required another employee in the same DWG is formally elected into the position of deputy HSR using the agreed processes
- outgoing HSRs will provide a 'handover' to newly elected HSRs within 2 weeks of being elected
- the incoming HSR can seek support and assistance from the HSRC as required

9.4 ASSISTING OTHER DESIGNATED WORK GROUPS (DWGS)

HSRs may provide assistance outside their DWG where there is no elected HSR or deputy HSR. This may be done by raising and escalating issues in accordance with Section 11 of these Arrangements. A HSR may only exercise powers prescribed in the Act for a DWG that they are elected to.

9.5 HEALTH AND SAFETY REPRESENTATIVES' NETWORKS

A HSR network will be implemented in each sub-plan to enable:

- communication and peer support amongst HSRs, for discussion of identified occupational health & safety issues related to the working environment and work practices
- discussion of issues tabled at Site Safety Forums.

The sub-plan HSR network will be sponsored by the sub-plan and will include all HSRs (or their deputy (where one is elected), if unable to attend) from the sub-plan.

This network will be chaired by a person selected by the chair of the Sub-plan H&S Committee. The chairperson of the network shall delegate or perform the following tasks:

- arrange phone hook-ups for discussions and advise participants of discussion items
- record and distribute minutes of the discussions to all HSRs and the relevant H&S committee members
- organise hook ups if urgent discussions are required
- ensure consultation occurs as appropriate

9.6 FACILITIES FOR REPRESENTATIVES

DERs, HSRs, HSRCs and employee representatives who are members of the NHSC or a Sub-plan H&S Committee will have access to the time, resources and facilities required to perform their role. This will include reasonable paid time and relief where appropriate.

Facilities available to DERs, HSRs, HSRCs and employee representatives who are members of the NHSC or a Sub-plan H&S Committee may include access to private interviewing rooms, photocopying facilities, a private filing cabinet, access to notice boards and access to other equipment that may be required to report on issues such as potential hazards.

Employees undertaking the roles of a DER, HSR or HSRC are to discuss these duties with their manager.

In approving time, managers must balance the requirements of the corporate role to those on the individual to competently carry out their duties as an employee of the ATO.

The amount of time afforded will be determined by the individual's manager, after discussions with the individual which would consider the requirements of the corporate role, the individual's work capacity, workloads and operational requirements.

9.7 HSR REPORTING LINES

If a HSR represents a number of sub-plans within their DWG, they will report to the senior officer from each sub-plan in that site, with respect to health and safety matters arising within their DWG.

10. PAYMENT OF ALLOWANCES TO DERS, HSRs AND HSRCs

DERs, HSRs and HSRCs are entitled to payment of the HSR allowance once they have been appointed to the role AND successfully completed the accredited training (as defined in the Act).

Should a DER or HSR be re-elected, or appointed (in the case of a HSRC) that person will retain their allowance providing all training requirements have been met in accordance with part 8 of these Arrangements.

ATO People shall be responsible for the payment and cessation of allowances.

Allowances will be back paid to a maximum of 3 months prior to attendance at the accredited training. That is, if the election is more than 3 months prior to the training then the maximum back pay is 3 months.

11. ESCALATION PROCESS AND DISPUTE RESOLUTION MECHANISM

The Act requires that these Arrangements provide for a dispute resolution mechanism to deal with disputes arising in the course of consultations held under the Act (other than section 24) between the employer and the employees.

In the event there is a dispute arising in the course of consultations held under the Act (other than Section 24) the following process applies.

An attempt is to be made to resolve the dispute at the lowest possible level. If resolution is unsuccessful, it may be referred/escalated to the relevant Site Safety Forum for resolution. If a matter is relevant to a particular sub-plan, the matter is to be escalated to the relevant Sub-plan H&S Committee for resolution.

If a dispute has not been resolved at the Site Safety Forum and/or by the Sub-plan H&S Committee it may be referred to the NHSC for resolution. The NHSC will seek to resolve the matter within 21 days of the report being made to the NHSC. If the dispute is still unresolved, it may be referred to the AC, EP&H and Health & People Management for resolution. This can be done by contacting the NHSC secretariat and emailing the HPM Prevention mailbox.

If the matter is still not resolved ATO People will make arrangements to engage an independent mediator who will attempt to resolve the matter.

If following on from the mediation the matter is unresolved the matter shall be referred to the FAC, ATO People for a decision.

12. EMERGENCY SITUATIONS

The parties acknowledge the right of an employee to refuse to perform an unsafe task, or refuse to perform a task they reasonably believe would expose them or other

persons (whether employees or not) at or near the place at which the employee is at work to some unreasonable or unnecessary risk of injury.

Accordingly, an employee who believes that they have been asked to perform an unsafe task should bring the matter to the immediate attention of their HSR and manager/team leader or director.

When a HSR has reasonable cause to believe that an emergency or immediate threat to employees' health or safety exists, the HSR shall immediately inform the manager/team leader concerned. The manager/team leader will then take immediate and appropriate action to assess and if necessary remove the threat (e.g. contact the Chief Warden, Site Leader, People Helpline and/or Property Operations), which may include evacuation or stopping work in a safe manner.

If there is disagreement concerning the appropriate action, the matter will be referred for immediate consideration by the next senior management representative and the HSR is to notify the AC, EP&H. In the meantime, work will be halted or the area evacuated pending consideration by the senior management representative. If there is still disagreement, the issue will be referred to Comcare as a matter of urgency in accordance with Section 37(3) of the Act. If work ceases because of an emergency, management will, wherever practicable, direct the employees to carry out suitable alternate work.

If the manager/team leader cannot be contacted immediately, or if the emergency or threat is of such a nature that there is no time to contact the manager/team leader, the HSR will direct the employee(s) to evacuate or cease work in a safe manner. The HSR is then to inform an appropriate manager/team leader and the Site Leader of that action as soon as practicable.

Work will not resume until ATO management and the HSR are satisfied that there is no longer any unacceptable level of risk to the health and safety of employees. Actions by HSRs with respect to Emergency procedures are detailed in section 37 of the Act.

REFERENCES

LEGISLATION

Occupational Health and Safety Act 1991, Regulations and approved Codes of Practice (the Act)

Safety, Rehabilitation and Compensation Act 1988 (the SRC Act)

Occupational Health and Safety (Safety Arrangements) Regulations 1991

Occupational Health and Safety (Safety Standards) Regulations 1994

Occupational Health and Safety Code of Practice 2008 (OHS Code of Practice)

AGENCY AGREEMENTS

ATO (General Employees) Agreement 2009
2009 ATO (EL2) Agency Agreement

PRACTICE STATEMENTS

Business Continuity PS CM 2003/20
Committee Management PS CM 2006/06 and Committee Management CMPI
Emergency Control Organisation PC CM 2003/21
First Aid CMPI (under development)
Health and safety PS CM 2006/03

GUIDANCE MATERIAL

Health and Safety Representative Handbook (Comcare publication - 2008)
Health and safety risk management framework (including the Toolkit, Work environment checklist, report templates and flowcharts).
Manager's Duty of Care Checklist

APPENDIX A: DEFINITION OF "CONSULTATION"

Consultation is a two-way exchange of information. It should be seen as an opportunity to add value to the employer's decision-making processes.

The Commission has adopted a working definition of what constitutes consultation from the Australian Industrial Relations Commission case, *Australian Workers' Union v Campbell Mushrooms Pty Ltd* 1183/96 Print N4825 (1996). Consultation, as explored in that case can be summarised as:

"Consultation means to appropriately inform employees, inviting and considering their response prior to a decision being made. Employees' opinions should not be assumed. Sufficient action must be taken to secure employees' responses and give their views proper attention. Consultation requires more than a mere exchange of information. Employees must be able to contribute to the decision-making process, not only in appearance but in fact".

Source: Comcare Fact Sheet: "Consultation on Health and Safety".

APPENDIX B

ELECTION PROCESSES FOR DIRECTLY ELECTED REPRESENTATIVES AND HEALTH AND SAFETY REPRESENTATIVES

A scrutineer will be required to oversee all election processes for the appointment of DERs and HSRs. The scrutineer will monitor the process for security, secrecy, and robustness of process.

The ATO will manage the NHSC DER elections. The sub-plans are responsible for managing sub-plan DER elections. ATO People will manage HSRC selections and HSRCs will manage HSR elections for employees within their site/s. ATOSurv may be used to run the election voting process.

For the purposes of the election, the membership of a DWG will be established when the nomination period commences. Note that once nominations are called for, the names of the nominees will be maintained in confidence until the end of the nomination period. A postal vote process will not be made available.

The elections of DERs will be conducted as a 'first past the post' system. The elections of HSRs will continue to be conducted as a 'first past the post' system. DERs and HSRs are elected for a two year period.

To commence the election process the ATO will ensure:

- There is liaison with Site Leadership Forums to advise of their role in the election processes, and provide support as necessary;
- That assistance provided to the Site Leadership Forums to define the site based DWGs in consultation with affected employees, employee representatives and sub-plan committees, where appropriate;
- That all DWGs are defined prior to commencing the election process and;
- The administration of the election process for DERs and HSRs is overseen.

INITIAL ELECTION PROCESS

The ATO will:

- Advise current HSRs regarding the changes;
- Ensure easy access to the HSMA on the intranet;
- Call for employees to nominate for the positions of DERs and HSRs within a reasonable timeframe after a vacancy occurs;
- Fill all DER and HSR positions by election;
- Fill deputy DER and deputy HSR positions (where identified) by election at the same time;
- Conduct an election process if a DER and HSR position becomes vacant during the tenure period.

If a DER vacates a position during the tenure period, a deputy DER will take that person's place, in the order in which the deputy was elected, until such time as the DER replacement is elected.

ELECTION PROCESS – GENERAL POINTS

For the purposes of the election, the membership of a DWG will be established when the nomination period commences. Note that once nominations are called for, the names of the nominees will be maintained in confidence until the end of the nomination period.

Refer to the advice contained in these Arrangements regarding DERs (Section 7.5.1).

Refer to the advice contained in these Arrangements regarding HSRs (Sections 9.1 and 9.2)

No postal vote process will be made available for those employees who cannot access electronic voting facilities during the voting period.

The Site Leadership Forum will monitor the process being undertaken for security, secrecy, and robustness of process.

Additional information about elections is detailed in Section 5.3 of these Arrangements.

APPENDIX C

SELECTION PROCESS FOR HEALTH AND SAFETY REPRESENTATIVE COORDINATORS

Eligibility

The role of a HSRC is open to all ongoing ATO employees. Vacancies will be advertised by Health & People Management and may be done so via site newsletters and/or email.

The standard selection process for HSRCs will consist of assessing all applications, even when there is only one candidate. This is to ensure that the successful person is appointed to the role based on merit and overall suitability for the position.

A HSRC will be appointed for a period of two years (other than in the case of filling a casual vacancy - see Resigning or Withdrawal from the Role, below).

A HSRC is expected to competently carry out this role without compromising their own health and safety or their duties and responsibilities as an employee of the ATO. Training will be provided to HSRCs to support them in this corporate role.

Time Commitment

When a HSRC is initially appointed to the role, they may need to invest considerable time in the role in order to conduct the Health and Safety Representative elections and work in consultation with Site Leadership to establish how the HSRC and HSR roles will work in their site(s).

This may involve 1-3 weeks work.

Once the initial "set up" is in place, it is expected that on average, HSRCs would need approximately 2-3 hours per week to perform their role. This time would be spent attending to any administrative issues and regular liaison with Site Leadership and HSRs. The average time required will also depend on the number of DWGs in the office and whether the HSRC also has responsibility for regional sites.

Anyone interested in becoming a HSRC should consider the requirements of the role carefully and discuss their intentions with their manager to ensure that they will be able to manage their responsibilities.

Selection Criteria

The following criteria will be used in assessing candidates' suitability for the HSRC role

- Understanding of the role of HSRs and the HSR election process
- Understanding of the OH&S Legislation, ATO HSMA, the ATO's health and safety priorities and related policies and procedures

- Ability to communicate clearly and succinctly via oral and written means
- Administrative skills and an intermediate level of knowledge in the use of Microsoft office applications to competently complete site inspection reports and prepare consolidated reports to the Site Safety Forum
- Demonstrated ability to organise and co-ordinate effective meetings
- Experience in the co-ordination of elections would be highly regarded
- Demonstrate initiative and sound judgement on health and safety matters
- Effective time management skills

Selection Process and Appointment

The selection process may involve submission of an expression of interest, an interview with a selection panel and referee checks.

Members of the selection panel may include one representative from Health & People Management, one representative from Site Leadership, one representative from either the CPSU or ASU and one representative from the local HSR network of the site the vacant position exists in.

The delegate will be the Site Leader or any other person that the FAC ATO People or Chair of the NHSC otherwise decides.

Successful candidates will be notified in of their appointment into the HSRC role.

Training

Health & People Management will make arrangements to ensure that accredited training for all HSRCs is provided within 3 months of appointment. Training occurs over a 5 day period and is compulsory. (Any HSRCs who have attended the accredited training within the previous two years are not required to attend the course again).

Further information about training can be found at Section 8 of these Arrangements.

HSRC Allowance

HSRCs are entitled to an allowance once they have been appointed and have successfully completed their training in accordance with the requirements of the HSMA.

ATO People shall be responsible for the payment and cessation of allowances.

Moving Sites

Health & People Management must be informed if a HSRC moves sites, even if on a temporary basis. Continuation in their role in the site they move to would depend on the requirement for this.

Resigning or Withdrawal from the Role

A HSRC may resign from the role at any time by notifying Health & People Management and giving 4 weeks notice.

Health & People Management may withdraw a HSRC from their role in certain instances.

These instances may include, but are not limited to

- any form of misconduct
- any breach of policy or relevant legislation
- failure to participate in relevant meetings and training; and
- failure to competently carry out the responsibilities of a HSRC as detailed in Section 7.5.2 of these Arrangements.

Where a HSRC position becomes vacant, a process will be run to select a new HSRC for the remainder of the original term.

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