Division 3 Workplace health and safety representatives

Subdivision 1 Preliminary

67 Who is a workplace health and safety representative?
(1) A workplace health and safety representative is a worker at a workplace who is elected as a workplace health and safety representative by the worker’s co-workers at the workplace.
(2) An employer cannot appoint a workplace health and safety representative.
(3) A worker does not need any experience or qualification to be a workplace health and safety representative.

68 How many workplace health and safety representatives can a workplace have?
The workers at a workplace are entitled to elect 1 workplace health and safety representative for the workplace, but may, as a result of negotiations with their employer, elect more than 1 representative.

69 Workplace health and safety representative’s area of representation
(1) A workplace health and safety representative’s area of representation is—
(a) the workplace; or
(b) if a workplace has more than 1 representative—the area of representation negotiated with the representative’s employer under section 70.

70 Negotiation between workers and employer about workplace health and safety representatives
(1) Workers at a workplace may negotiate with their employer about workplace health and safety representatives for the workplace, including, for example—
(a) the number of workplace health and safety representatives for the workplace; and
(b) the extent to which the employer will facilitate the election of 1 or more workplace health and safety representatives for the workplace; and
(c) if there is to be more than 1 workplace health and safety representative—each representative’s area of representation; and
(d) the intervals at which a workplace health and safety
representative is entitled to conduct inspections; and
(e) access by the representative to training designed to help
the representative in the exercise of the representative’s
entitlements.

*Examples of subsection (1)(c)—*
1 all of the workplace during a particular time
2 a particular area of the workplace
3 a particular process done at the workplace

(2) Workers may be represented during negotiations by the union
of which they are members if they have told the employer that
they want to be represented by their union.

(3) To remove any doubt, it is declared that if the workers are
members of more than 1 union, each of the unions asked may
be involved in the negotiations.

(4) The Queensland Industrial Relations Commission may hear
and decide, as an industrial matter, an application by a person
aggrieved by the failure of a negotiation under subsection (1).

Workplace Health and Safety Act 1995

(5) Subsection (4) must be read with the *Industrial Relations Act
1999*.

**Subdivision 2 Election process**

71 Electing a workplace health and safety representative
The workers may elect a workplace health and safety
representative on their own initiative or at their employer’s
suggestion.

72 Workers to tell employer of intention to elect workplace
health and safety representative
If the workers decide to elect a workplace health and safety
representative for the workplace, the workers—
(a) must tell their employer of the decision; and
(b) may tell a union that has members who are workers at
the workplace of the decision.

73 Employer to facilitate election of workplace health and
safety representative if asked
(1) An employer must, if asked by the employer’s workers,
facilitate an election of a workplace health and safety
representative for the workplace.
(2) The employer must tell all the employer’s workers at the
workplace of the pending election within 28 days after being
asked to facilitate it.
(3) The employer must facilitate the election within 2 months
after being asked to do so.
Maximum penalty—10 penalty units.
(4) The employer complies with the requirement to facilitate an
election if, at the least, the employer—
(a) does not hamper the election process; and
(b) allows the employer’s workers to conduct the election at
the workplace during ordinary working hours.

Workplace Health and Safety Act 1995
Workers may ask union to conduct election of workplace health and safety representative

(1) The workers may ask any union with members at the workplace to conduct the election of 1 or more workplace health and safety representatives for the workplace.

(2) However, if a union agrees to conduct the election, it must conduct it for all workers at the workplace.

Employers to be told of elected workplace health and safety representatives

A worker elected as a workplace health and safety representative must tell the worker’s employer of the person’s election as soon as practicable after being elected.

Subdivision 3 Employer’s responsibilities

Employer must negotiate with workers if asked

(1) An employer must, if asked by the employer’s workers, negotiate with the workers about workplace health and safety representatives for the workplace.

Maximum penalty—10 penalty units.

(2) An employer must not exclude from the negotiations a union that has members who are workers at the workplace if the workers have told the employer that they want to be represented by the union.

Employer to help workplace health and safety representatives

(1) An employer must consult a workplace health and safety representative about proposed changes to the workplace, or plant or substances used at the workplace, that affect, or may affect, the workplace health and safety of persons at the workplace.

Examples of some matters for negotiation may be found at section 70 (Negotiation between workers and employer about workplace health and safety representatives).

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Workplace Health and Safety Act 1995

Maximum penalty—10 penalty units.

(2) An employer must permit a workplace health and safety representative to make inspections allowed under section 81(2) or any negotiated agreement.

Maximum penalty—10 penalty units.

(3) An employer must not obstruct access by a workplace health and safety representative to training for the representative agreed under section 70(1)(e).

Maximum penalty—10 penalty units.

Employer to tell workplace health and safety representatives about certain things

(1) An employer must tell each workplace health and safety representative at the employer’s workplace about the following things if they are within the representative’s area of representation—

(a) any workplace incident happening at the workplace;

(b) any proposed changes to the workplace, or plant or
substances used at the workplace, that affect, or may affect, the workplace health and safety of persons at the workplace;
(c) the presence of an inspector at the workplace if the representative is at the workplace;
(d) a notice given by an inspector about a matter.
(2) The employer must tell each representative as soon as practicable after the thing comes to the employer’s knowledge.

79 Employer to display identity of workplace health and safety representatives
(1) An employer must display, in accordance with this section, a notice advising the identity of each workplace health and safety representative for the workplace.
Maximum penalty—10 penalty units.

s 80 60 s 81
Workplace Health and Safety Act 1995
(2) The notice must be displayed within 5 days after the representative is elected.
(3) If the workplace has only 1 workplace health and safety representative, a notice for the representative must be displayed in 1 or more conspicuous positions at the workplace in a way likely to come to the attention of workers at the workplace.
(4) If the workplace has more than 1 workplace health and safety representative, a notice for a representative must be displayed in a conspicuous position in the part of the workplace covered by the representative’s area of representation in a way likely to come to the attention of workers in that part.

80 Employer to tell new workers and display notices about workplace health and safety representatives’ provisions
(1) An employer must display in a conspicuous position at the workplace a notice in the approved form giving information about provisions under this division about workplace health and safety representatives.
Maximum penalty—10 penalty units.
(2) The employer must also tell new workers employed by the employer about workplace health and safety representatives and workplace health and safety committees for the workplace.
Maximum penalty—10 penalty units.

Subdivision 4 Entitlements and areas of responsibility

81 Entitlements of workplace health and safety representatives
(1) A workplace health and safety representative is entitled—
(a) to inspect the workplace or the part of the workplace within the representative’s area of representation; and
(b) to be told by the representative’s employer of any workplace incident happening at the workplace; and
(c) if a workplace incident has happened and an employer wishes to interview a worker about the incident—to be present at the interview if the worker asks that the representative be present; and
(d) to review circumstances surrounding workplace incidents told to the representative by the employer; and
(e) to advise the employer of the results of the review and to make recommendations arising out of the review; and
(f) to be consulted by the employer on any proposed change to the workplace, or plant or substances used at the workplace, that affects, or may affect, the workplace health and safety of persons at the workplace; and
(g) to help in the resolution of workplace health and safety issues within the representative’s area of representation; and
(h) to be told by the employer of the presence of an inspector at the workplace if the representative is at the workplace; and
(i) to report orally or in the approved form to the employer or workplace health and safety officer an issue that in the representative’s opinion affects, or may affect, the workplace health and safety of persons at the workplace; and
(j) to seek the employer’s cooperation inremedying the issue and, if the issue is not remedied to the representative’s satisfaction, to report the issue to an inspector; and
(k) to report orally or in the approved form to an inspector an issue that—
(i) has been reported previously to the employer or workplace health and safety officer; and
(ii) has not been satisfactorily remedied within a reasonable time; and
(l) to ask the employer to establish a workplace health and safety committee for the workplace; and

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(m) to be a member of a workplace health and safety committee; and
(n) to exercise other entitlements prescribed under a regulation; and
(o) to attend a training course prescribed under a regulation, and refresher courses for the training course, and to have all reasonable costs of the representative’s attendance at the courses, including course fees and the representative’s usual remuneration, met by the employer.

(2) Inspections may be conducted at weekly intervals or other
intervals negotiated between the employer and the employer’s workers.

(3) An employer must allow a workplace health and safety representative to exercise the representative’s entitlements during the representative’s ordinary working hours.

(4) Subsection (1)(k) does not limit the right of any other worker at the workplace to report to an inspector an issue that in the worker’s opinion affects, or may affect, the workplace health and safety of persons at the workplace.

Subdivision 5 General

82 Election of a workplace health and safety representative not to diminish employer’s obligations

An employer’s workplace health and safety obligations are not diminished by—

(a) the election of a workplace health and safety representative; or

(b) any act or omission of a worker acting in the capacity of workplace health and safety representative.

83 Workplace health and safety representatives may be re-elected

A workplace health and safety representative is eligible for re-election.

s 84 63 s 86

Workplace Health and Safety Act 1995

84 Term as workplace health and safety representative

A worker elected as a workplace health and safety representative is a workplace health and safety representative for a term of 2 years from the day the worker was elected.

85 Ceasing to be a workplace health and safety representative

A worker stops being a workplace health and safety representative if the worker—

(a) tells the worker’s employer that the worker resigns as workplace health and safety representative; or

(b) stops being a worker at the workplace.