



**Lutheran Church of Australia | National Office |
New Work Health and Safety Laws
First Aiders, Health and Safety Representatives,
Health and Safety Committees**
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1.0 First Aiders

(WHS Regulations 2011 r42 and Code of Practice – First Aid in the Workplace)

What are my duties as a first aider?

If you are a worker who is a trained first aider, you do not have any additional duties beyond those of other workers. All workers have a duty to:

- ❖ take reasonable care for their own health and safety
- ❖ take reasonable care not to adversely affect the health and safety of others
- ❖ comply with any reasonable instructions given by the PCBU to allow it to comply with its duties
- ❖ co-operate with any reasonable policy or procedure relating to health and safety at the workplace

In practical terms, the responsibility of a first aider is to provide care only to the level of their first aid training.

Will my duties as a first aider change under the WHS Act?

The new laws do not impose any new or additional duties on workers who are first aiders. If you are trained first aider you will continue to have the same duties you have now.

Am I entitled to be paid for my work as a first aider?

Under the new WHS Act, there is no requirement that a first aider be paid for performing that role. Some organisations and companies do pay their first aiders a nominal amount in recognition of the importance of the role they play.

How to determine first aid requirements for the workplace?

As part of the risk management approach, the PCBU must consider the following:

- ❖ the nature of the work and workplace hazards
- ❖ size and locations of the workplace
- ❖ the number and composition of workers and other people
- ❖ whether the workplace is 'low risk workplace' or 'high risk workplace'

before determining the first aid requirements.

Refer to Code of Practice – First Aid in the Workplace (draft under public comment)

2.0 Health and Safety Representative

(WHS Act 2011 S50-74, WHS Regulations 2011 R18-21)

Who can be a Health and Safety Representative (HSR)?

Any worker who is a member of a work group is eligible to be elected as a HSR.

How long is the appointment of a HSR?

A HSR hold their office for three (3) years and can be re-elected.

Can a HSR be personally responsible for mistakes?

No, HSRs are not personally liable for anything done or omitted to be done in good faith when exercising a power or performing a function under the WHS Act or for anything done that they reasonably believed was authorised.

Is a HSR paid for carrying out their role?

A HSR is entitled to spend as much paid work time as is reasonably necessary to exercise their powers and perform their functions under the WHS Act.

Can a HSR attend training?

Yes, if requested by a HSR, the PCBU must allow the representative to attend training within three (3) months that is:

- ❖ approved by the regulator
- ❖ which the HSR is entitled to under the regulations.

A HSR cannot exercise their powers to issue a provisional improvement notice or direct works to cease unsafe work unless they have completed prescribed training.

The PCBU must pay the course fees, other reasonable costs associated with the HSR's attendance at that training; and must also pay the HSR's normal entitlements during that period.

What are the functions and role of a HSR?

The role of the representative is to represent workers on health and safety issues. A direction by a HSR to cease unsafe work must follow consultation with the PCBU, and the issue resolution procedure must be followed, except in the case of a serious or immediate threat to safety.

How is a HSR elected?

Any worker may ask a PCBU to facilitate elections for one or more HSRs. A HSR is elected by members of a work group to represent that work group in work health and safety matters.

Step 1 - a work groups are established

A work group (group of workers who share similar work health and safety concerns and conditions) is established by a PCBU following a request by a worker for a HSR to be elected. By aligning workers into work-related groups, the work group ensures that a HSR can appropriately represent its workers.

A PCBU must commence negotiations for work groups within 14 days of a request by a worker.

Step 2 - workers are notified

As soon as reasonably practicable following the negotiations is completed, the PCBU must advise workers of the outcomes of negotiations and of the work groups determined.

Step 3 - election of HSRs is undertaken

The workers within each work group can determine the procedure by which a HSR will be elected, but must comply with any requirements set out in the regulations.

- ❖ The PCBU must provide resources, facilities and assistance that are reasonably necessary to enable the election to be conducted.
- ❖ The election may be conducted by the work group or if a majority of members agree, with the assistance of another person or an organisation such as a union.
- ❖ Each work group member is entitled to one vote in the election. However, if the number of candidates is equal to the number of vacancies, each candidate is taken to be elected as a HSR for the work group without an election.

Step 4 - work group notified of election outcome

As soon as reasonably practicable after the election, the persons who conducted the election must advise the member of the work group and the PCBU if the results.

3.0 Health and Safety Committees

(WHS Act 2011 S75-79)

How is a Health and Safety Committee (HSC) established?

- ❖ A Health and Safety Representative (HSR) or five or more workers at a workplace may request the creation of a HSC. The PCBU must establish the HSC within two (2) months of the request.
- ❖ A PCBU may establish a HSC at any time by their initiative.

Who can be a HSC member?

- ❖ At least half of the members must be workers who are not nominated by the PBCU.
- ❖ If there is a HSR at the workplace, they may choose to be a member.
- ❖ The remaining membership is agreed between the PCBU and the workers at the workplace.

Functions of a HSC

A HSC must meet at least once every three (3) months and at any other reasonable time at the request of at least half of the HSC members.

The functions of a HSC are:

- ❖ to facilitate cooperation between the PCBU and workers in instigating, developing and carrying out measures designed to ensure the workers' health and safety at work
- ❖ to assist in developing standards, rules and procedures relating to health and safety that are to be followed or complied with at the workplace
- ❖ any function prescribed by the regulations
- ❖ any other function agreed between the PCBU and the HSC

HSC members are entitled to:

- ❖ spend reasonably necessary paid work time attending meetings and carrying out their functions as committee members
- ❖ have access to information that the PCBU has in relation to hazards, risk assessments and the health and safety of workers at the workplace (this does not extend to personal or medical information about individuals).

Refer to www.safeworkaustralia.gov.au