

BULLETIN

Work Health and Safety Consultation Duties

This bulletin provides general guidance for Persons Conducting a Business or Undertaking (PCBU) and workers on the consultation duties under the [Work Health and Safety \(National Uniform Legislation\) Act](#) (WHS Act). More detailed information and guidance can be found in the approved Code of Practice for [Work Health and Safety Consultation, Co-operation and Co-ordination](#) and [Worker Representation and Participation Guide](#) which are available on the NT WorkSafe website.

Consultation Duties under the WHS Act

Section 46 and 47 of the WHS Act places obligations on:

- all duty holders who have a duty in respect of the same matter to consult, cooperate and coordinate with each other so far as is reasonably practicable under section 46, and
- a PCBU to consult with workers so far as is reasonable practicable under section 47.

Consultation obligations are located in Part 5 of the WHS Act.

Consulting with workers – Section 47

A PCBU must, so far as is reasonably practicable, consult with workers who carry out work for their business or undertaking who are, or are likely to be, directly affected by a work health and safety matter. The duty is not limited to consulting with employees but includes contractors, subcontractors, labour hire workers, volunteers and any other people working in the business or undertaking who are, or could be, affected by the matter.

The duty is qualified by 'so far as is reasonably practicable' which means that the circumstances in each case, including the urgency of the health and safety issue and the seriousness of the risk, will be relevant when determining the level of consultation that is required.

The PCBU and their workers can agree to procedures for consultation that best suit their circumstances. If there are agreed procedures for consultation, the consultation must be in accordance with those procedures.

When does a PCBU have to consult with workers?

A PCBU must consult with workers when:

- identifying hazards and assessing risks arising from work and making decisions about ways to eliminate or minimise those risks;
- making decisions about the adequacy of facilities for the welfare of workers;
- proposing changes that may affect the health or safety of workers, and
- making decisions about the procedures, including those for:
 - consultation with workers;
 - resolving work health or safety issues;
 - monitoring the health and safety of workers;
 - monitoring workplace conditions;
 - providing information and training to workers, and
 - when carrying out any other activity prescribed by the [Work Health and Safety \(National Uniform Legislation\) Regulations](#).

A PCBU may choose to consult with workers about health and safety matters in other instances, for example when conducting investigations into incidents or 'near misses'.

What should the consultation with workers involve?

The consultation duty requires that:

- relevant information about the work health and safety matter is shared with workers
- workers are given a reasonable opportunity to express their views, raise issues and contribute to the decision making process on how to deal with work health and safety matters
- the views of workers are taken into account, and
- workers are advised of the outcome of the consultation in a timely manner.

Consultation involves taking the views of workers and health and safety representatives into account before making a decision. Consultation does not require consensus or agreement but it does entitle workers to contribute to any decisions made.

Role of Health and Safety Representatives in consultation

If workers are represented by a Health and Safety Representative (HSR), the consultation must involve that HSR.

Duty holders must consult with each other – Section 46

If more than one person has a duty in relation to the same matter, each of those persons must consult, cooperate and coordinate activities with each other, so far as is reasonably practicable. There may be a number of different duty holders involved in an activity – they could be a supplier, a contractor, the owner of the building where the work is carried out, an officer or a worker. Each duty holder can have an affect on work health and safety in relation to the activity and therefore must share information and cooperate with each other to ensure that each person can meet their health and safety duties effectively without gaps or inconsistencies.

For further information contact NT WorkSafe on 1800 019 115 or go to www.worksafe.nt.gov.au