

# **HSR Handbook**

**A guide for  
Commonwealth  
health and safety  
representatives**



October 1997

## 6. Powers of Health and Safety Representatives

### **Introduction**

The legislation describes the powers a HSR has for the purpose of promoting or ensuring the health and safety at work of employees in the DWG. These powers may be used in the resolution of health and safety issues.

### **Consultation and record keeping**

You are entitled to initiate procedures to protect the health and safety of members in your DWG.

If you have identified a health and safety issue and you subsequently believe that there is a contravention of the legislation, you must consult with the relevant supervisor.

The process defined in the legislation emphasises the resolution of issues through consultation between management and worker representatives.

You should keep a record of any consultation you have undertaken. These can be in the form of diary notes, electronic mail records, hand written notes, etc.

### **Broad powers of the HSR**

[Sections 28, 37, 48 & 77]

HSRs have broad powers under the legislation to promote the health and safety at work of employees in the DWG. HSRs have the power to:

- ▶ 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
- ▶ request an investigator or the SRC Commission to conduct an investigation 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 health and safety committee
- ▶ examine the records of the health and safety committee
- ▶ 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
- ▶ access employer's information relating to any health and safety risk to any employee at any workplace under the employer's control
- ▶ issue a provisional improvement notice (PIN)  
[For more information See Figure 1: Contravention of the OHS (CE) Act or Regulations.]
- ▶ initiate emergency stop-work procedures where there is an immediate threat to the health and safety of employees and the supervisor is unavailable
- ▶ appeal to the Australian Industrial Relations Commission (AIRC) against an investigator's decision to vary or cancel the PIN

**Broad powers  
of the HSR (cont.)**  
[Sections 28, 37, 48 & 77]

- ▶ 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
- ▶ 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 that assistance or information
- ▶ request consent from an employee that a consultant be present at an interview with the HSR between the employee and investigator or the employer.

It should be noted that the legislation does not impose any obligations on you to exercise any of these powers. HSRs are not liable under civil proceedings for exercising or failing to exercise any of the powers outlined in the legislation.

If your employer is reluctant to provide you with information relating to any health and safety risk to an employee, you can contact Comcare for advice.

**Provisional  
Improvement Notice  
(PIN) issued by HSR**  
[Section 29]

Where you believe a person:

- ▶ is contravening the legislation, or
- ▶ has contravened the legislation and is likely to do so again,

you must consult with the relevant supervisor in an attempt to reach agreement on rectifying the contravention or preventing the likely contravention.

If you consider that agreement on the resolution of a contravention of the legislation in your DWG cannot be reached within a reasonable time, you may issue a PIN to the person responsible for the contravention. This person is referred to as the 'responsible person'.

The PIN must specify:

- ▶ which part of the legislation is, in your opinion, being contravened
- ▶ the reason why you believe there is a contravention
- ▶ the period (not less than seven days after the day of issue of the PIN) in which the responsible person is to take action necessary to prevent any further or likely contravention.

The PIN may also specify action the responsible person is to take and the period may be extended by the HSR, in writing, before the original expiry date.

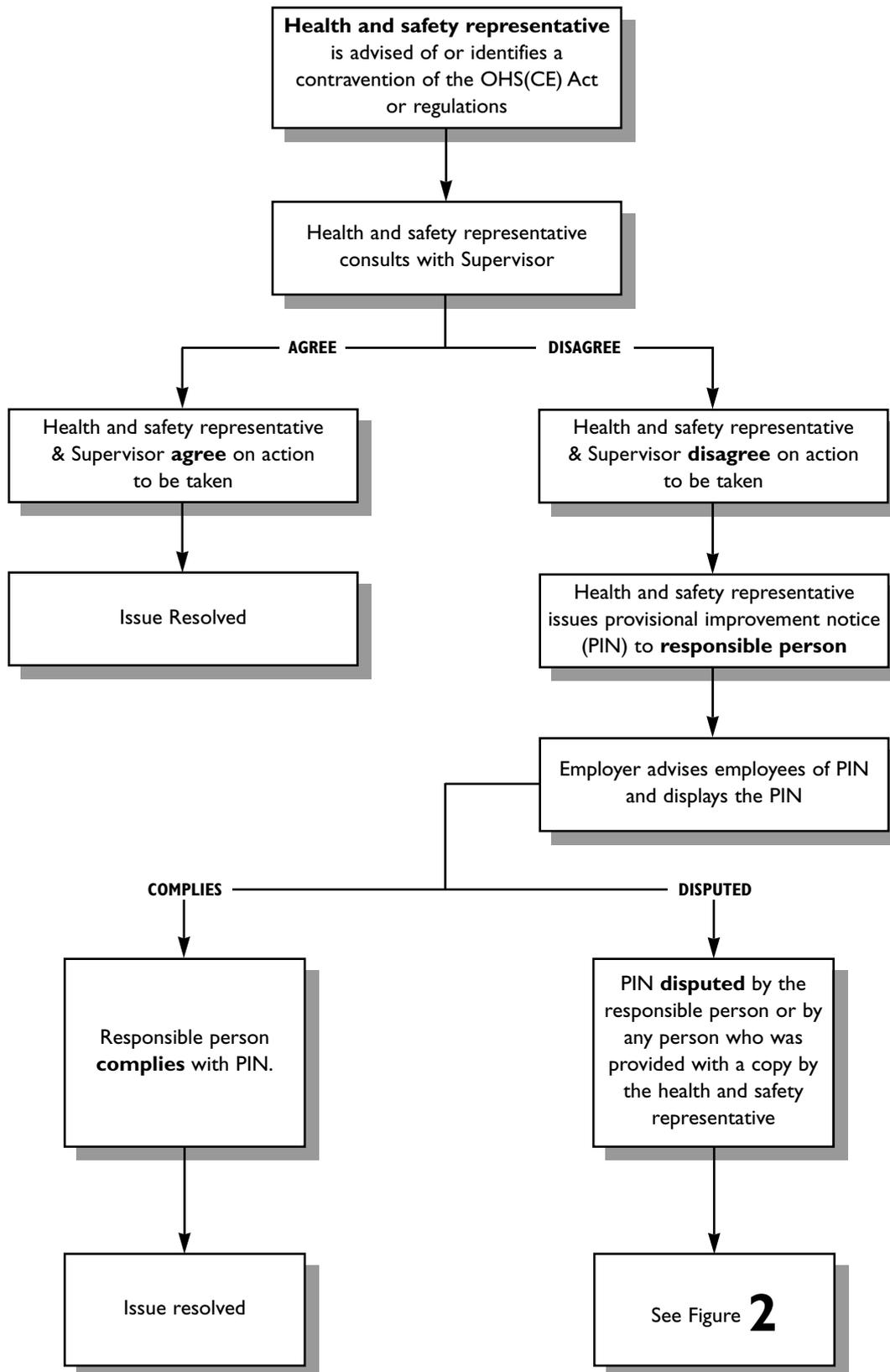
As the HSR, you must provide:

- ▶ the original copy of the PIN to the responsible person
- ▶ a copy of the PIN to the employer of the employees affected by the PIN
- ▶ a copy of the PIN to the owner where the PIN relates to a workplace, plant, substance or thing not owned by the employer.

You are advised to keep a copy of each PIN you issue.

More detail on PINs can be found in Section 29 of the OHS(CE) Act.

**FIGURE 1: Contravention of the OHS(CE) Act or Regulations**



# Provisional Improvement Notice

Form 1 Regulation 30

Occupational Health and Safety (Commonwealth Employment) Regulations

To Bruce Brewer

*(the responsible person within the meaning of subsection 29 (2) of the act)*

I, Jane Smith

*(name of the health and safety representative issuing the notice)*

appointed as the health and safety representative under section 25 of the Occupational Health and Safety (Commonwealth Employment) Act 1991 for:

Field Services

*(description of the designated work group)*

after consultation in accordance with subsection 29 (1) of the Act, believe that the following provision, or provisions, of the Act or Regulations is, or are, being contravened or is, or are, likely to continue to be contravened:

OH&S (CE) (National Standards) Regulations - Part 5 Manual Handling

The contravention is (a brief description)

All reasonable practicable steps have not been taken to ensure that plant and containers are without risk when manually handled and the work system is a manual handling risk.

The contravention is occurring at:

5 Main Street, Alice Springs NT

*(address of workplace)*

The reasons for my opinion are as follows:

The handling of heavy and awkward cases containing equipment for field work is causing concern about back strains. Despite formal requests, interim safety measures are inadequate and there has not been an adequate risk assessment, followed by permanent control measures.

*(include brief description of contravention)*

In accordance with paragraph 29 (4) (b) of the Act, action necessary to prevent the contravention, or the likely contravention, of the provision or provisions referred to above must be taken before the date 24 / 11 / 97.

(the date of a day that is:

- (a) not less than 7 days after the day when the notice is issued; and
- (b) reasonable in the opinion of the health and safety representative).

In accordance with paragraph 29 (5) of the Act, the following action should be taken:

Meet the requirements of the Manual Handling Regulations, referring also to the Code of Practice on Manual Handling as necessary.

Jane Smith

17 / 11 / 97

*(health and safety representative)*

This notice ceased to have effect on    /    /

**Example of a PIN**

An example of a completed PIN is shown on page 12. The format of a PIN (with its associated notes) is provided after page 43 of this Handbook.

**Who is the 'responsible person'?**

[Section 29]

The responsible person in your organisation may be a supervisor or a higher level of management. Find out from senior management, or your organisation's OHS Agreement, the name, position and location of the 'responsible person' to whom a PIN should be issued. You may choose to write this information at the back of this Handbook.

If this information is not known to you, you can issue the PIN to the person who you believe has the authority to fix the problem associated with the subject matter of the PIN.

In unique circumstances, the responsible person may be the owner of a workplace, plant, substance or thing.

**Action by the responsible person to comply with the PIN**

[Section 29]

The responsible person must:

- ▶ comply with the PIN
- ▶ inform the HSR who wrote the PIN of the action taken to comply with the PIN
- ▶ as a supervisor acting on behalf of your employer, notify the affected employees of the PIN and display the PIN until it ceases to have effect.

**If the responsible person wishes to dispute the PIN**

[Section 29]

If the responsible person wishes to dispute the PIN they must, within seven days after the PIN is issued, request the SRC Commission or an investigator to conduct an investigation (by contacting the State/Territory Comcare OHS Manager). The responsible person cannot ignore the PIN.

**When a PIN ceases to have effect**

[Section 29]

The PIN ceases to have effect if:

- ▶ the responsible person takes the action required in the PIN
- ▶ the responsible person takes action to prevent further contravention of the subject of the PIN, even though no specific action was requested by the HSR in the PIN
- ▶ it is cancelled by you as the HSR
- ▶ it is cancelled by an investigator.

**Request for an investigation**

[Section 29]

If you wish to request an investigation, or discuss the possibility of an investigation, you can contact your State/Territory Comcare OHS Manager.

***PINs and investigations***  
[Section 29 & 47]

When the request for investigation is made to the SRC Commission or an investigator (ie. through the State/Territory Comcare OHS Manager) within 7 days after the PIN is issued, the operation of the PIN is suspended pending the outcome of the investigation.

The PIN should remain displayed even though it has been suspended by the request for an investigation.

An investigation must be conducted as soon as possible after a request is made.

The investigator conducting the investigation must:

- ▶ either confirm, vary, or cancel the PIN
- ▶ notify the responsible person and the HSR
- ▶ notify any other person who has been given a copy of the PIN by the HSR.

The investigator may make decisions and exercise such powers as he/she considers necessary.

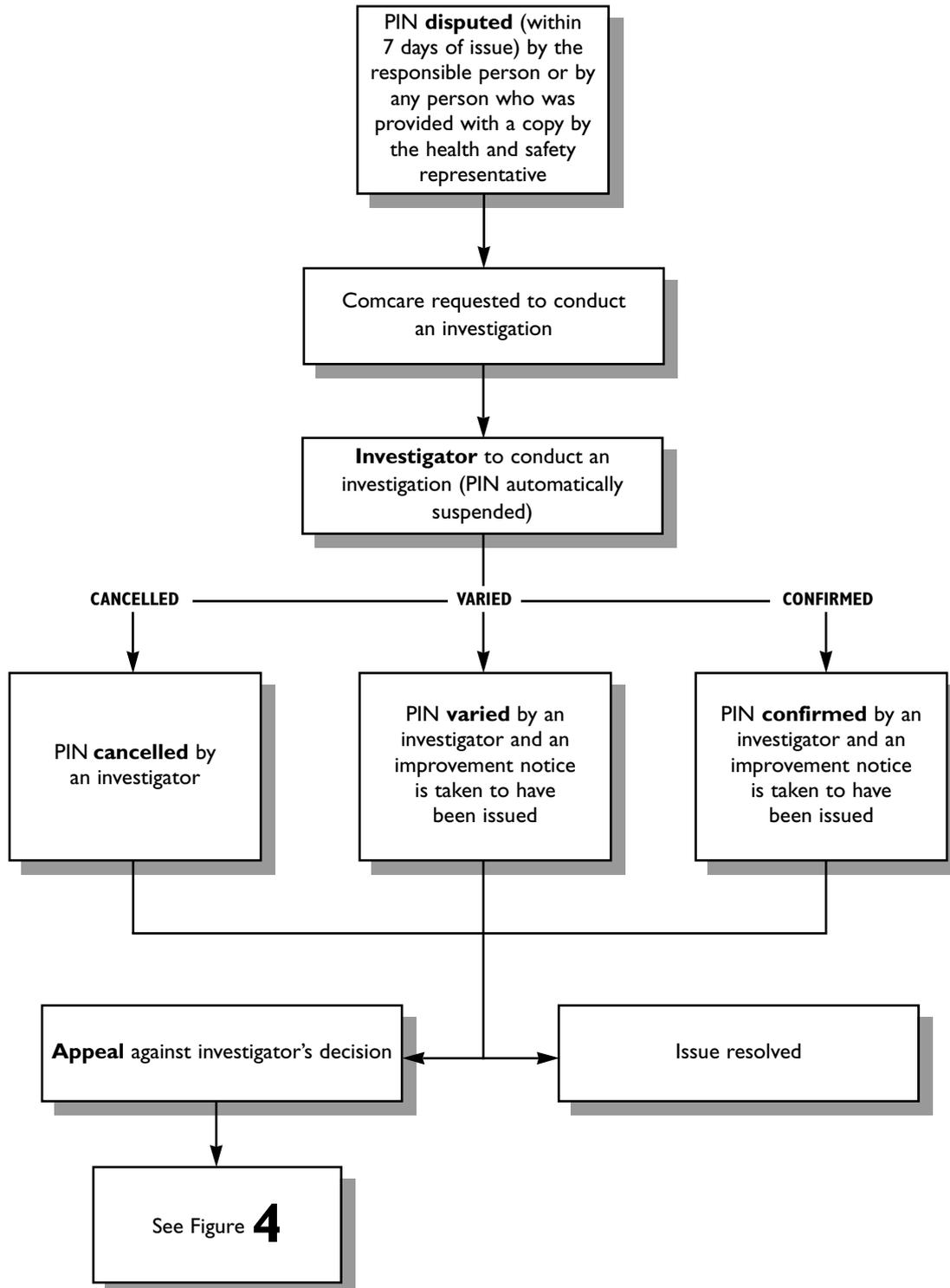
The investigator may decide to:

- ▶ issue an improvement notice as a means of confirming or varying the PIN
- ▶ cancel the PIN.

The PIN ceases to have effect if an improvement notice is issued by an investigator.

For further information see Figure 2: Provisional Improvement Notice (PIN) Disputed.

**FIGURE 2: Provisional Improvement Notice (PIN) Disputed**



## 7. Resolving Health and Safety Issues

### **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 consultative approach in the legislation**

[Sections 16 & Part 3 of the Act]

The legislation emphasises consultation and cooperation between employers and employees over OHS issues by:

- ▶ setting out the means of selecting HSRs and establishing occupational health and safety committees
- ▶ stating their respective functions and powers.

### **Health and Safety Committees**

### **Activities of a workplace health & safety committee**

[Section 35]

The functions of a workplace health and safety committee defined in the legislation are very broad and are meant to promote an environment in which the employer and employees work cooperatively to ensure the health and safety of employees at work.

Specific activities require the committee to:

- ▶ assist the employer to develop, implement, review and update prevention activities
- ▶ facilitate cooperation between the employer and employees on OHS matters
- ▶ assist the employer in the dissemination of OHS information (in appropriate languages).

The legislation also states that workplace health and safety committees can carry out a variety of other functions as agreed between the employer and the committee.

### **Employee representatives**

Where there are involved unions, the employee representatives on health and safety committees may be nominated by one or more of the involved unions. Alternatively, agreement may be reached that the HSRs who have been selected comprise some or all of the employee representatives on the committee.

### **Employer representatives**

Employer representatives ideally include senior or line managers who have the authority to make decisions concerning improvements to health and safety and have a good knowledge of the organisation.

### **Frequency of meetings**

[Section 34]

The legislation states that a workplace health and safety committee must hold meetings at least every three months. However a committee may meet more frequently due to several factors including:

- ▶ likely volume of work to be handled by the committee
- ▶ size of the workplace or area covered by the committee
- ▶ number of employees and DWGs covered by the committee
- ▶ type and complexity of the work carried out in the workplace
- ▶ nature of hazards and risks in the workplace.

### **HSRs and their link with committees**

The role of the HSR and the workplace health and safety committee differ but are intended to complement each other.

As a means of distinguishing between roles, HSRs would tend to concentrate their efforts on addressing specific DWG issues, and the health and safety committee would tend to address broader organisational issues in accordance with their terms of reference.

If a committee exists, a HSR has powers to examine the records of the committee.

Where HSRs are not members of the committee, it is important they communicate with employee representatives on the committee to ensure they know about the committee's activities and issues being addressed.

A HSR is not required under the legislation to be an employee representative on the committee.

If no committee exists, HSRs have the power to perform some of the duties of a committee for the members of their respective DWG.

## 8. Hazard Identification, Assessment and Control

### **Risk management is the employer's responsibility**

[Section 16 & Regulations]

It is the employer's responsibility to manage risk through the application of management policies, procedures and practices to identify, assess, control and monitor risks.

The legislation places on the employer primary responsibility for:

- ▶ identifying and assessing all reasonably foreseeable workplace hazards which may affect the health or safety of employees or other persons at work
- ▶ eliminating or minimising the risk of exposure to these hazards
- ▶ identifying and assessing risks to health or safety before the introduction of:
  - ▷ any plant or substance
  - ▷ a work practice or procedure
  - ▷ change to a workplace, work practice, activity, or process.

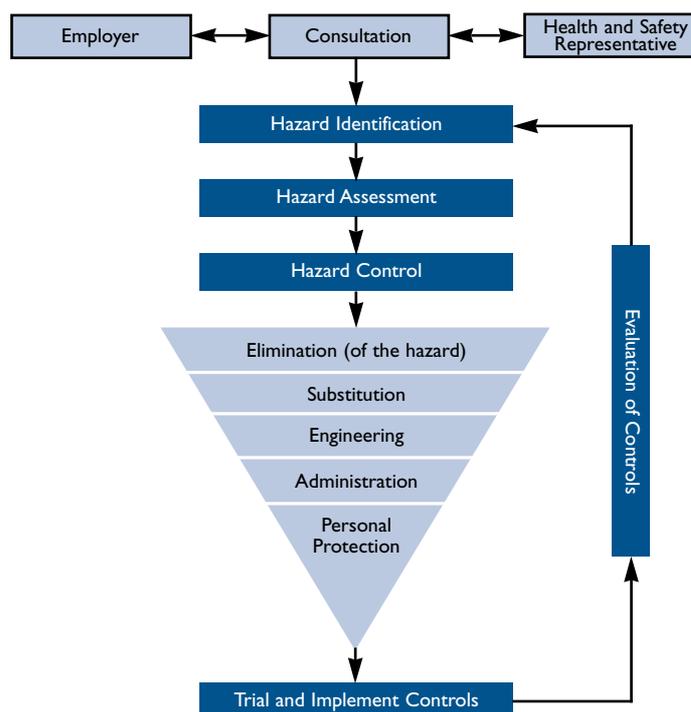
The legislation includes a general obligation on employers to provide adequate information and the right of employees to secure such information.

### **How the HSR can be involved**

[Sections 28 & 30]

As a HSR, you may participate in the risk management process on behalf of the members of your DWG by undertaking inspections to help identify and record workplace hazards.

Your employer must consult with you on changes to the workplace which may affect the health and safety of members of the DWG.



## Identification of Hazards

### **Introduction**

Before workplace hazards can be controlled they first need to be identified. The major responsibility for this lies with the employer.

Some hazards such as slippery walking surfaces, poor lighting and obstructed passages may be obvious. Other hazards such as poor indoor air quality may not be quite so easily detected.

### **Workplace inspection by HSR** [Section 28]

The legislation allows HSRs to undertake workplace inspections. These inspections may fall into the following three basic types:

- ▶ accident inspection
- ▶ special inspection
- ▶ regular inspection.

### **Accident inspection**

An accident inspection is in response to an accident or dangerous occurrence or the threat of one. You should be advised of the event so you can undertake an immediate investigation.

This inspection could be jointly undertaken with the supervisor or other management representative. This does not however mean that the two parties must necessarily be in agreement as to their findings.

### **Special inspection**

A special inspection is in response to changes to the workplace such as the introduction of new technology. Reasonable notice must be given to the employer before a special inspection.

### **Regular inspection**

Regular inspections are part of a regular program or audit of the workplace and may be jointly undertaken with the supervisor or other management representative, provided reasonable notice has been given to the employer.

Regular inspections should occur with a frequency related to the size of the workplace, the number of workers involved, and any other relevant factors.

It may be useful to obtain a floor plan of the workplace which contains information on the location of equipment, emergency exits, fire fighting and first aid equipment, and other relevant features.

Together with the plan of the work area, checklists form the basis for a comprehensive review of the workplace practices on an ongoing basis.

Checklists can vary according to the type of work and workplace. They can be compiled by the HSR or may be available from the employer or from the union. Checklists can also be found in some Codes of Practice and Comcare OHS publications.

**Accident and dangerous occurrences**

[Section 68 & Regulations]

Your employer has an obligation under the Regulations to notify and report certain accidents and dangerous occurrences to Comcare, and to keep records of accidents and dangerous occurrences.

Information and statistics on accidents and dangerous occurrences will help you to assess the effectiveness of health and safety procedures and may alert you to areas or activities which require attention.

If it appears that there are shortcomings in either the record-keeping or the reporting system you can seek to negotiate improvements with management.

Employees should be encouraged to report all accidents, dangerous occurrences and near misses to their supervisor and HSR so they can be investigated with a view to preventing similar occurrences in the future.

**OHS survey**

If you suspect a health and safety hazard in the workplace, further information may be obtained by surveying employees. Information collected from such a survey may confirm the view that a hazard exists and can also provide additional back-up to support your claim to control the hazard.

**Investigation of DWG member's complaints**

Individual employees may raise problems with you over hazards in their workplace. These should be fully investigated.

**Substances used in the workplace**

[Section 28 & Regulations]

All substances (chemicals) used in the workplace are potentially hazardous. To determine whether a chemical, or the process in which chemicals are used, is a hazard, identify the chemical and obtain as much information as possible about it such as health effects, correct handling procedure, storage and transport.

Such information must be provided by the manufacturer and supplier to your employer. The information may be in the form of a material safety data sheet (MSDS). You are entitled to have access to this information.

**Use of monitoring devices**

Some hazards may be identified by the use of monitoring devices which measure the level of concentration of the hazard; eg., noise, temperature, lighting, fumes, dusts and radiation.

You may be able to reach agreement that the employer:

- ▶ does the testing, under your observation
- ▶ provides you with a copy of the results.

Alternatively, you may bring an investigator or consultant into the workplace provided the employer or the SRC Commission agrees to the services of a consultant to conduct such tests.

**Consultants to  
the HSR**  
[Section 28]

As a HSR, you are entitled to be assisted by a consultant, when appropriate. Before you make these arrangements you should obtain written approval and funding for the services of the consultant from your employer or the SRC Commission.

Your organisation's OHS Agreement may contain guidelines regarding the provision of a consultant's services. This agreement should be checked before obtaining these services.

The involved union's OHS Officer is a potential consultant available to union HSRs (free of charge in most cases) and can be used as a first point of contact for outside assistance.

**DWG meetings**

DWG meetings can provide important information about health and safety problems which may go unnoticed in normal workplace inspections.

## Assessing the Hazard

**Introduction**

If a hazard has been identified, an assessment of it should be undertaken by the employer in consultation with the HSR. An assessment should be made of the risks of exposure to the hazard which can affect the health and safety of employees.

**Method**

The method of assessment will be chosen according to the:

- ▶ nature of the identified hazard
- ▶ potential effects of exposure to the hazard
- ▶ Regulations and Codes of Practice
- ▶ strategy for control of the hazard.

**Criteria**

This assessment may include a number of criteria such as:

- ▶ a visual inspection
- ▶ auditing
- ▶ testing
- ▶ technical or scientific evaluation
- ▶ an analysis of accident and dangerous occurrence data
- ▶ results of discussions with designers, manufacturers, suppliers, importers, occupational hygienists, occupational physicians, medical practitioners, ergonomists, engineers, employees and Comcare.

Specific assessment criteria are available in a number of documents such as Regulations, Standards, Codes of Practice, Comcare Fact Sheets, and Australian Standards.

## Controlling the Hazard

### **Introduction**

To avoid or reduce the incidence of occupational injury or illness, it is important that the risks associated with exposure to workplace hazards are:

- ▶ eliminated, or
- ▶ minimised, if it is not reasonably practicable to eliminate.

Any control strategy should be accompanied by regular environmental monitoring (indicating exposure levels) and/or medical monitoring (indicating the dose received by workers) as a check on the effectiveness of the chosen control strategy.

### **Hierarchy of control measures**

The hierarchy of control measures is a list of control measures, in priority order, that can be used to eliminate or minimise exposure to the hazard.

This order of hazard control is:

- ▶ elimination
- ▶ minimisation through:
  - ▷ substitution
  - ▷ engineering
  - ▷ administration
  - ▷ personal protection.

### **Elimination**

Eliminating a hazard from the workplace is the best way to control it.

Potential hazards may be eliminated through recognition during the design phase. Before moving into new premises, or introducing new equipment or change to work processes, all potential hazards should be eliminated.

In order for you to be involved you must be informed during the planning stage, prior to work commencing.

### **Substitution**

Hazardous equipment, substances or work processes may be effectively controlled through substitution or modification.

Safer alternative chemicals can generally be obtained. Equipment that is ergonomically designed or emits less noise can be purchased.

Jobs can be redesigned to remove the need for maintenance of fixed postures or for constant repetitive work.

### **Engineering**

Provision of a mechanical aid will assist workers with manual handling tasks (e.g. trolleys, hoists, ramps).

### **Engineering (cont.)**

Enclosure of plant or dangerous parts of equipment (e.g. by use of guards, sound absorption material) can minimise exposure to hazards.

Isolation by use of remote handling techniques (such as that used to protect radiographers from radiation in X-ray departments) places a barrier between the worker and a dangerous process.

Exhaust or extraction systems remove vapours, fumes and dust from workers' breathing zones (the contaminant must be captured by the exhaust or extraction system as close as possible to its source).

### **Administration**

Administration procedures can reduce exposure to hazardous equipment and processes by limiting the time of exposure (e.g. by job rotation) or by varying the time when a particular process is carried out.

Employers are required to provide training and information to employees to enable them to work in a safe manner.

Regular maintenance and programmed housekeeping provide an ongoing method for controlling certain workplace hazards, (e.g. regular inspection and repair of faulty equipment, prompt cleaning of spills and dirty work areas, and pathways kept clear of obstructions).

### **Personal protection**

If the hazardous working environment cannot be contained, then the employee may be 'contained' i.e. provided with personal protective equipment (PPE).

PPE should be considered as a last resort, and at best an interim measure, until more effective control strategies are implemented.

The employer is responsible for providing PPE and appropriate training to employees on its correct use and maintenance .

Employees should make full and proper use of PPE to ensure maximum protection and should report any equipment failure or malfunction. The legislation places a duty on employees to use equipment in accordance with the training they have received.

PPE has a number of limitations as an effective control method. In many instances:

- ▶ available PPE may not meet the relevant Australian Standard, or may not be adequately maintained to provide real protection
- ▶ use of PPE may make the job more difficult to perform
- ▶ use of PPE may impede warnings of danger
- ▶ use of PPE may cause other health problems (for example, ear infections)
- ▶ PPE is generally not individually fitted and may fail to provide full protection
- ▶ PPE may be uncomfortable, causing employees to remove the PPE resulting in their exposure to the risk.

[Information on 'Controlling the Hazard' has been adapted from the Victorian Trades Hall Council's 'Preferred Order of Hazard Control Methods'.]

# Provisional Improvement Notice

Form I Regulation 30

Occupational Health and Safety (Commonwealth Employment) Regulations

To \_\_\_\_\_  
(the responsible person within the meaning of subsection 29 (2) of the act)

I, \_\_\_\_\_  
(name of the health and safety representative issuing the notice)

appointed as the health and safety representative under section 25 of the Occupational Health and Safety (Commonwealth Employment) Act 1991 for:

\_\_\_\_\_  
(description of the designated work group)

after consultation in accordance with subsection 29 (1) of the Act, believe that the following provision, or provisions, of the Act or Regulations is, or are, being contravened or is, or are, likely to continue to be contravened:

\_\_\_\_\_  
The contravention is (a brief description)  
\_\_\_\_\_  
\_\_\_\_\_

The contravention is occurring at:  
\_\_\_\_\_  
(address of workplace)

The reasons for my opinion are as follows:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(include brief description of contravention)

In accordance with paragraph 29 (4) (b) of the Act, action necessary to prevent the contravention, or the likely contravention, of the provision or provisions referred to above must be taken before the date \_\_\_ / \_\_\_ / \_\_\_ .

(the date of a day that is:  
(a) not less than 7 days after the day when the notice is issued; and  
(b) reasonable in the opinion of the health and safety representative).

In accordance with paragraph 29 (5) of the Act, the following action should be taken:  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
(health and safety representative)

This notice ceased to have effect on \_\_\_ / \_\_\_ / \_\_\_ (See Notes over)

## NOTES ASSOCIATED WITH PROVISIONAL IMPROVEMENT NOTICE

1. Under subsection 29 (8) of the Act, a person to whom a provisional improvement notice is given may, within 7 days, request the SRC Commission or an investigator to conduct an investigation into the subject matter of the notice.

Subsection 29 (12) of the Act requires an employer to whom a provisional improvement notice is given:

- to notify each employee affected by the notice of the fact that the notice has been issued; and
  - to display a copy of the notice at or near each workplace at which work that is the subject of the notice is being performed.
2. Under subsection 29 (13) of the Act, a provisional improvement notice ceases to have effect when:
    - it is cancelled by the health and safety representative or an investigator; or
    - the responsible person takes the action specified in the notice, or if no action is specified, takes the action that is necessary to prevent the contravention, or likely contravention, with which the notice is concerned.
  3. Subsection 29 (14) of the Act requires the responsible person to:
    - ensure, as far as possible, that a provisional improvement notice is complied with, and
    - inform the health and safety representative who issued the notice of the action taken to comply with the notice.
  4. Under section 48 of the Act, if an investigator has confirmed or varied a provisional improvement notice:
    - an employer affected by the investigator's decision; or
    - the health and safety representative or involved union for a designated work group whose employees are affected by the decision; or
    - the owner of any plant, substances, or thing to which that decision relates, the person to whom the notice was issued; or
    - if there is no designated work group – an involved union in relation to the affected employee,

may, in writing, request the Australian Industrial Relations Commission to review the investigator's decision.