



COURTENELL

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Your Safety Matters

This information letter is distributed to those people who are ensuring that their workplace is safe and healthy. This includes members of Health & Safety Committees, Health & Safety Representatives, Safety Officers, Supervisors, Managers and Directors. "Your Safety Matters" (formerly "Committee Member") is a free information letter which has been distributed since 1996.

How Long Can an HSR or Committee Member Stay in that Elected Position?

It is just over 8 years ago that the NSW WHS Act came into force. Since then, all HSRs, and some Committee members have been elected to their position. But their time in that elected position of office is limited – if they want to stay in that position when their term of office has expired they can stand for re-election.

HSR Elections

Can a HSR's time as an HSR expire?

"A health and safety representative for a work group holds office for 3 years" - (Section 64 WHS Act).

For example, if a worker was elected as an HSR on the 2/2/2012 then that HSR's 3 years would expire on the 1/2/2015. However, that HSR can stand for re-election - (Section 64 WHS Act).

Who is eligible for election?

- the existing HSR can be re-elected (Section 64 WHS Act).
- a worker is eligible for election only if they are a member of the work group (Section 60 WHS Act).
- a worker is not eligible if they have been disqualified under Section 65 of the WHS Act, from being an HSR (Section 60 WHS Act).

When is an election not needed?

You don't need an election if the number of candidates for election as an HSR for a work group equals the number of vacancies in that workgroup. (Section 63 WHS Act)

Can an election be delayed?

No. A PCBU must not unreasonably delay the election of an HSR (clause 19 WHS Regulations)

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Who can vote?

Only the members of a workgroup can vote for an HSR candidate for their workgroup.
(Section 62 WHS Act).

What is the procedure for electing an HSR?

- the workers in a work group can decide how an election should be conducted.
(Section 61 WHS Act)
- the election may be conducted with the assistance of a union or other person or organisation if a majority of the workers require it. (Section 61 WHS Act)
- the PCBU must provide any resources, facilities and assistance that are reasonably necessary to conduct the election and comply with the regulations about procedure.
(Section 61 WHS Act 2011)
- the PCBU must take reasonable steps to ensure (clause 18 WHS Regulation);
 - (a) each person in the workgroup is informed of the date of the election as soon as practicable,
 - (b) all workers in the workgroup are given an opportunity to nominate for the HSR position and vote,
 - (c) all workers are informed of the outcome of the election.

Note: For further information about HSRs and training HSRs go to our website link [HERE](#)

Health & Safety Committee Member Elections

The WHS Act and the WHS Regulations has little to say on the subject of the election of H&S Committee members. These matters have been left to the PCBU and the workers to agree upon and record in the constitution of the committee.

“The constitution of the health & safety committee may be agreed between the person conducting the business or undertaking and the workers at the workplace” (See Section 76 (1) WHS Act).

Ideally that Constitution should show the period of time a member can be a member before having to be re-elected.

Note: For further information about Committees and training committee members go to our website link [HERE](#)

17th February 2020

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