

FACT SHEET | WHS (MINES AND PETROLEUM SITES) LEGISLATION

Coal mine safety and health representatives

June 2016

Safety and health representatives for coal mines

Safety and health representatives (SHRs) are representatives of workers' health and safety interests in the coal industry. They were traditionally known as check inspectors.

SHR arrangements only apply to coal mines, and do not apply where the only mining operation is exploring for coal.

Mine safety and health representatives

Site safety and health representatives are elected to represent workers at a specific mine and hold office for a three-year term.

Electrical SHRs are also elected for a three-year term and have the same functions and powers as site SHRs except that they may only exercise their powers in relation to electrical installations and electrical equipment, and any issues and risks arising from their use.

Site and electrical SHRs (collectively called 'mine safety and health representatives') must complete a five-day course of training, accredited by the regulator.

Powers and functions

A mine SHR fulfils all the functions of a health and safety representative (HSR) under the *Work Health and Safety Act 2011* (WHS Act) for all workers at the mine, and in addition may observe any formal investigation conducted by or on behalf of the mine operator of an event or other occurrence at the coal mine that must be notified to the regulator.

A mine SHR's powers and functions are to:

- represent the workers at the coal mine in work health and safety matters
- monitor the measures taken by the mine operator or other persons conducting a business or undertaking (PCBUs) to comply with the WHS laws at the mine
- investigate complaints from workers at the coal mine about work health and safety
- inquire into anything that appears to be a risk to the health or safety of workers at the mine, arising from the conduct of the mine operator or other businesses or undertakings at the mine.

In exercising a power or performing a function, mine SHRs may:

- inspect the mine or any parts of it where workers carry out work - reasonable notice must be given except in the event of an incident or any situation involving a serious risk to the health or safety of a person emanating from an immediate or imminent exposure to a hazard

- accompany an inspector during an inspection of any part of the coal mine where workers work. Inspectors must, as soon as practicable after entering a workplace, take reasonable steps to notify the mine SHRs of the entry, and consult with them as far as is reasonably practicable
- attend interviews between one or more work group members and an inspector or a PCBU at the mine. For example, interviews may take place after an incident has occurred, for return-to-work purposes or as part of issue resolution processes. An SHR can only attend such interviews if the interview is about work health and safety matters and the worker consents to the mine SHR attending
- request the establishment of a health and safety committee
- receive information concerning the work health and safety of workers in the work group
- request the assistance of any person whenever necessary
- direct a worker to cease unsafe work or issue a provisional improvement notice (PIN) but only after completing the required training
- request a review of a control measure in certain circumstances.

Industry safety and health representatives

Industry SHRs (ISHRs) are appointed by the Minister for Resources and Energy and must be nominated by the Construction Forestry, Mining and Energy Union (Mining and Energy Division). Industry SHRs must complete the same training as mine SHRs before they can be appointed.

Industry SHRs have all the functions of health and safety representatives under the WHS Act for all workers of coal mines in NSW, as well as the following additional powers and functions:

- to review the content and implementation of the safety management systems at coal mines
- to participate in investigation of events, occurrences and notifiable incidents at coal mines
- to assist in the training of site SHRs and electrical SHRs.

In exercising a power or performing a function, industry SHRs may:

- enter and inspect any part of a workplace at a coal mine
- accompany an inspector during an inspection of any part of the coal mine where workers work
- suspend operations in certain circumstances
- direct a worker to cease unsafe work or issue a provisional improvement notice (PIN) but only after completing the required training.

Provisional improvement notices

A provisional improvement notice (PIN) is a notice issued by an SHR about an issue that poses a risk to health and safety in the workplace. A PIN can be issued if the SHR reasonably believes that a person is breaching or has breached the WHS legislation in circumstances that make it likely the breach will continue or be repeated. A PIN may require the person to:

- remedy the breach
- prevent a likely breach from occurring
- remedy the things or operations causing the breach or likely breach.

A PIN can be issued to any person, including a PCBU (either organisation or individual), or any other duty holder such as workers, officers, or other persons at the workplace.

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Disclaimer: This publication provides a general summary of some of the provisions under the Work Health and Safety Act 2011, Work Health and Safety Regulation 2011 and the Work Health and Safety (Mines and Petroleum Sites) Act 2013 and the Work Health and Safety (Mines and Petroleum Sites) Regulation 2014 (WHS laws as interpreted by the NSW Department of Industry, Skills and Regional Development at the time of writing (May 2016)). Compliance with the WHS laws is a legal requirement. This publication does not provide or purport to provide legal advice. Users are reminded of the need to ensure that the information upon which they rely is up to date by checking the currency of the information at the Department of Industry, Skills and Regional Development website or with the user's independent legal advisor

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