

COMMUNICATIONS KIT



Work Health and Safety
and Other Legislation
Amendment Act

2024

Building safer workplaces together

ABOUT THE ACT



The **Work Health and Safety and Other Legislation Amendment Act 2024** (WHSOLA Act) implements legislative change from the **2022 Review of the Queensland's Work Health and Safety Act 2011** and the national 2018 Review of the model work health and safety laws.

The WHSOLA Act strengthens worker protection and representation, as well as encourages the take up of health and safety representatives (HSR) in the workplace.


Key changes include:

- clarifying HSR powers
- encouraging the election of HSRs
- provisions to ensure HSRs are appropriately remunerated
- streamlining the issue and dispute resolution process
- promoting consultation between workers, representatives and person conducting a business or undertaking (PCBU)
- clarifying and extending entry permit holders (EPH) powers.

ABOUT THIS KIT

This communications kit has been created to help you and your workplace understand the Act and key changes.

In this kit you will find:

- **Key takeaways on several provisions:**
 - insurance and indemnity against penalties
 - worker representation and consultation
 - entry permit holders (EPH)
 - health and safety representatives (HSR)
 - issue and dispute resolution process.
 - **Indicative provision dates for changes**
 - **Promotional resources**
 - **Helpful links**
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WHAT YOU NEED TO KNOW ABOUT INSURANCE CONTRACTS AND ARRANGEMENTS

Changes commenced 28 March 2024

There is now a ban on using insurance arrangements to avoid paying work health and safety penalties.

Both *Work Health and Safety Act 2011* (WHS Act) and *Safety in Recreational Water Activities 2011* (Qld) prohibit a person entering into, providing or benefiting from an insurance contract or arrangement that purports to cover monetary penalties under these Acts.

You are encouraged to proactively review and revise your insurance arrangements before penalties begin to come into effect from September 2024.

There are transitional arrangements for these provisions which means the penalty for a breach is delayed, however you are encouraged to proactively review and revise your insurance arrangements.

By 28 September 2024 all persons must not:

- enter into an arrangement that purports to cover penalties
- provide an arrangement that purports to cover penalties.

From 28 September 2025 a person will be unable to take the benefit of an arrangement that covers penalties.



WHAT YOU NEED TO KNOW ABOUT WORKER REPRESENTATION AND CONSULTATION

Changes commenced 20 May 2024

The Act who can be involved in addressing work health and safety issues at a workplace. It includes suitable entities that can represent health and safety representatives (HSR) and workers.

A suitable entity for representing, or assisting a worker or the HSR, means a relevant union for the worker, or another entity authorised by the worker or representative to represent or assist them, that is not an excluded entity.

An excluded entity for representing or assisting a worker or HSR includes:

- a union that is not a relevant union for the worker
- an entity, other than a union, that is an association of employees or independent contractors
- an entity, other than a union or an association of employees or independent contractors, that represents, or purports to represent, the industrial interests of the worker or HSR
- an entity that demands or receives a fee from another excluded entity for representing, or purporting to represent the industrial interests of the workers or HSR
- an officer, employee, agent of an excluded entity.

A relevant union means a union of which the worker is a member, or is eligible to be a member, and whose rules entitle the union to represent the worker's industrial interests. The union must be an employee organisation registered under the *Fair Work (Registered Organisations) Act 2009* (Cwlth) or *Industrial Relations Act 2016* (Qld).

WHAT YOU NEED TO KNOW ABOUT ENTRY PERMIT HOLDERS

Changes commenced 20 May 2024

Amendments clarify the rights and responsibilities of work health and safety entry permit holders (EPH), and ensure they have access to necessary information to fulfil their roles effectively.

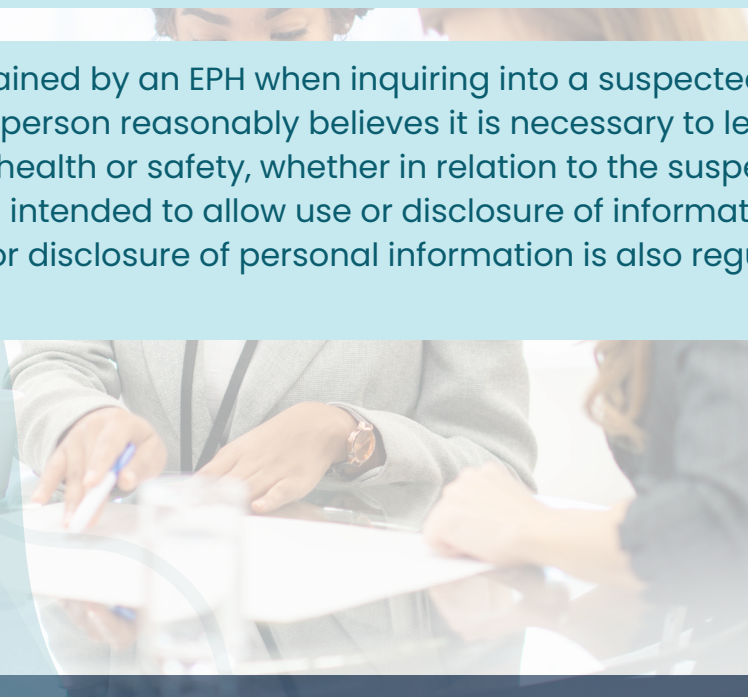
An EPH can enter a workplace for the purpose of giving notice of entry. A notice is not invalid merely because it contains a formal defect, irregularity or minor administrative error (e.g. a spelling error or incorrect name of a person or relevant union which is otherwise sufficiently identified in the notice).

An EPH who has given notice of entry for a suspected contravention is not required to give additional notice, where they have entered and remained at the workplace, to view relevant employee records or other documents held or accessible at the workplace, or to consult workers about the suspected contravention.

An EPH can enter a workplace to inquire into suspected contraventions of the WHS Act or *Electrical Safety Act 2002* (Qld) and remain at the workplace, during its normal working hours, for the time necessary to achieve the purpose of entry.

It is not reasonable for a person conducting a business or undertaking (PCBU) to request the EPH to comply with a WHS requirement if it would unduly delay, unreasonably prevent or hinder the EPH exercising a right of entry (e.g. requiring off-site induction at a location far from where entry is sought, or unnecessary use of exclusion zones).

Information obtained by an EPH when inquiring into a suspected contravention may be used or disclosed if a person reasonably believes it is necessary to lessen or prevent a serious threat to public health or safety, whether in relation to the suspected contravention or more generally. This is intended to allow use or disclosure of information for public awareness or education. Use or disclosure of personal information is also regulated under the *Privacy Act 1988* (Cwlth).



WHAT YOU NEED TO KNOW ABOUT HEALTH AND SAFETY REPRESENTATIVES

Changes commenced 20 May 2024

Powers and functions of HSRs

The powers and functions of health and safety representatives (HSRs) are amended to:

- enable an HSR to request assistance from a suitable entity for the HSR.



WHAT YOU NEED TO KNOW ABOUT HEALTH AND SAFETY REPRESENTATIVES

Changes commenced 29 July 2024

Consultation with workers and their representatives:

A person conducting a business or undertaking (PCBU) must consult with a representative of the worker(s) if this is requested by one or more of the workers. Where this consultation is to be carried out at the workplace, the PCBU must carry out the consultation at the time and place agreed to by the parties.

A PCBU must share relevant information with workers when carrying out consultation about a matter, but this does not require a PCBU to allow representatives to have access to identifying personal or medical information about workers (unless the worker has given consent) or confidential commercial information.

Election of HSRs and establishing working groups

Amendments to promote the election of health and safety representatives (HSRs) to represent workers in a work group include:

- a person conducting a business or undertaking (PCBU) must not intentionally hinder, prevent, or discourage a worker from requesting an election for HSRs
- a PCBU must not intentionally hinder, prevent or discourage the election of an HSR or deputy HSR or a person conducting the election from following election procedures.
- a PCBU must inform workers in writing about*:
 - their right to request the election of HSRs and establish work groups
 - the role, powers and functions of HSRs and the process for electing them, and
 - who can represent workers during negotiations about work groups
- a PCBU must invite workers to request the facilitation of an election for one or more HSR.

*WHSQ are developing guidance materials to support PCBUs on how to inform workers in writing.

Work groups and health and safety committees

Amendments also make some changes for work groups, including:

- a relevant union can in writing notify a PCBU that they want to be party to the negotiations and agreement of a work group
- a PCBU must negotiate with a worker's representative and relevant union where they are party to work group negotiations
- parties must agree on a time and place in the workplace where work group negotiations are to be carried out
- where negotiations fail, a party may request an inspector to assist resolve the dispute and make a decision within 7 days.

Amendments also make some changes for work groups and health and safety committees (HSC) including:

- HSCs must be established as soon as practicable but no later than 28 days
- where an agreement is unlikely to be reached, a party may request an inspector to assist resolve the dispute and make a decision within 7 days.

HSR choice of training provider, remuneration and timing:

Amendments to clarify the rights of health and safety representatives (HSRs) in relation to HSR training include:

- HSRs can choose their own training
- the person conducting a business or undertaking (PCBU) must allow the HSR to attend the training and ensure HSRs receive their usual pay (including overtime, penalties, and allowances) they would get if they were performing their normal duties. HSRs who are part time and work extra hours to attend training must be paid their regular wage for those additional hours.
- HSRs accessing their training sooner, with their initial course now to be completed within 28 days of election and 12-monthly refresher training.

If a PCBU and HSR cannot reach agreement about these matters, either party may ask the regulator to appoint an inspector to assist in resolving the matter or take the matter to the Queensland Industrial Relations Commissioner for resolution.

HSR powers:

Amendments clarify the powers of health and safety representatives (HSRs) include changes which:

- empower HSRs to request and receive information concerning the work health and safety of workers in the work group, this includes information contained in statutory notices and incident notifications
- allow HSRs to accompany an entry permit holder (EPH) at the workplace where the EPH's reason for entry relates to the HSR's work group
- ensure HSRs are informed of inspectors attendance at the workplace
- ensure HSRs are paid for performing their role
- allow HSRs to issue cease work directions to a PCBU
- know the resources, facilities and assistance that should be made available for them to perform their roles.

Provisional improvement notices

Amendments provide the following changes to provisional improvement notices (PINs):

- compliance with a PIN is reduced to 4 days
- timeframe from requesting review of a PIN is reduced to 3 days
- HSRs may change the day by which a contravention is to be complied with with the agreement of the person to whom the notice was issued or PCBU.



WHAT YOU NEED TO KNOW ABOUT ISSUE AND DISPUTE RESOLUTION PROCESS

Changes commenced 29 July 2024

The WHSOLA Act streamlines the issue and dispute resolution process by clarifying the role of inspectors, the Queensland Industrial Relations Commission (QIRC), and the standing of worker representatives. This facilitates efficient resolution of workplace and safety-related issues.

Pathways for issue and dispute resolution

The WHSOLA Act has split issue and dispute resolution of WHS matters into two pathways.

The first pathway is for matters where an inspector is required to first make a decision before the matter can be referred to the QIRC. These matters relate to work group determinations, work group variations and the constitution of health and safety committees.

The second pathway is for matters where parties to an issue can either request an inspector to be appointed to assist with resolving the matter (and then refer the matter to the QIRC) or directly take a dispute to the QIRC. These include matters about:

- health and safety representative (HSR) access to information or copies of particular notices
- access to a workplace by a person assisting an HSR
- HSR training
- HSR issuing a cease work direction
- WHS matters where the issue resolution process in Division 5 applies.



WHAT YOU NEED TO KNOW ABOUT AUDIOMETRIC TESTING

Changes to commence 29 July 2025

From 29 July 2025, a person conducting a business or undertaking must provide audiometric testing for certain workers.

Workers who use personal protective equipment due to the risk of hearing loss associated with noise that exceeds the exposure standards for noise will need to have this testing:

- within 3 months of them commencing work, and
- at least every 2 years thereafter.

Further information about this requirement will be provided on the Work Safe website closer to the commencement date.





PROVISION DATES

28 March 2024

The following changes are now live.

Section	Summary of change
Safety in Recreational Water Activities Act 2011	
42A, 42B, Part 6, Part 7 and Schedule 2	New prohibition on entering, benefiting or providing insurance contracts to cover monetary penalties. Learn more here: https://www.worksafe.qld.gov.au/laws-and-compliance/compliance-and-enforcement/penalties/prohibition-on-insurance-covering-work-health-and-safety-penalties
Work Health and Safety Act 2011	
272A, 272B, and Part 16, Division 8	New prohibition on entering, benefiting or providing insurance contracts to cover monetary penalties. Learn more here: https://www.worksafe.qld.gov.au/laws-and-compliance/compliance-and-enforcement/penalties/prohibition-on-insurance-covering-work-health-and-safety-penalties
Schedule 1	Clarifying rail safety jurisdiction



PROVISION DATES

20 May 2024

The following changes are now live.

Section	Summary of change
Safety in Recreational Water Activities Act 2011	
41	Commonwealth laws to be prescribed by regulation for the purpose of information sharing.
Work Health and Safety Act 2011	
Part 5, Div 1AA	New definitions of excluded entity, relevant union, representative and suitable entity.
61	Suitable entities may assist in conducting the election of a health and safety representative (HSR).
68(2)(g)	Suitable entities may provide assistance to HSRs
70(1)(g)	A suitable entity assisting an HSR may have access to the workplace.
80(1)	Role of suitable entities representing HSRs or workers as party to an issue.
81(3)	Persons conducting a business or undertaking (PCBU) are to allow all parties to the issue to enter and remain at the workplace for attending discussions to resolve the issue.
102A	Relevant unions and representatives for a worker affected by the WHS matter can be party to a dispute.
102B(5)	A relevant union for a worker affected by the WHS matter can notify the industrial registrar in writing that they want to participate in resolution of the dispute in circumstances where the relevant union was not named as a party to the dispute in the notice given to the registrar.
118	An EPH may remain at the workplace for the time necessary to achieve their purpose.
119	An EPH notice of entry is not invalid simply due to a formal defect, irregularity, or failure to use a correct name.



PROVISION DATES

20 May 2024

The following changes are now live.

Section	Summary of change
128	A reasonable request by a PCBU of an EPH to comply with a WHS requirement should not unduly delay, unreasonably prevent or hinder the EPH exercising a right of entry.
137	Consequential amendment due to amended definition of 'union'.
148	Requirements relating to disclosure or use of information obtained under Part 7, Division 2.
150	Consequential amendment due to amended definition of 'union'.
155	How notices are issued
171, 173	Persons may answer questions by audio or audio-visual link rather than attending in person before an inspector.
230	WHS Prosecutor to authorise an appropriately qualified member of staff to bring proceedings under the Act.
231	A person has 18 months after an act or omission to seek a Category 1 or 2 prosecution be brought.
271, 271A	Circumstances in which the regulator may use or disclose information obtained under the Act.
274	Codes of practice to be reviewed every 5 years.
Part 16, Division 8, Subdivision 2	Transitional provisions.
Schedule 2	Establishment of industry sector standing committees and the Consultative Committee for Work-related Fatalities and Serious Incidents.
Schedule 5	New definitions of corresponding regulator, corresponding WHS law, officer, consultative committee, excluded entity, relevant union, representative, suitable entity and union.



PROVISION DATES

29 July 2024

The following changes are now live.

Section	Summary of change
Safety in Recreational Water Activities Act 2011	
35	Consequential amendment related to review of decisions.
Work Health and Safety Act 2011	
48	PCBU to consult with a worker's representative if requested by one or more workers. Consultation to be carried out at time and place agreed by the parties.
50A, 50B	Prohibition on hindering a worker from making a request to facilitate the conduct of an election for one or more HSRs. PCBU to, at certain times, provide written notification to workers about capacity to request election of HSR, process for determining work groups/elections, who may represent the workers, and functions and powers of HSRs.
52	The PCBU, worker(s) or their representatives and a relevant union (where a PCBU is notified in writing) are party to work group negotiations.
54	Process where work group negotiations fail, including the role of inspector in making a decision.
62A	A PCBU must not hinder, prevent or discourage the election of an HSR (or deputy HSR) or the person conducting the election from following procedures relating to the election.
68	An HSR may request information from a PCBU and accompany an EPH at the workplace.
70	Powers of HSRs and obligations for PCBUs include: <ul style="list-style-type: none">• HSR may access information, copies of notices, and copies of information given to the regulator about notifiable incidents• PCBUs to permit HSRs to accompany an EPH• PCBUs to inform HSR when an inspector attends a workplace• HSR to be remunerated for performing role.
72	An HSR may choose the training course and receive remuneration for attending training.



PROVISION DATES

29 July 2024

The following changes are now live.

Section	Summary of change
75	An health and safety committee (HSC) must be established as soon as practicable but no later than 28 days.
76	Circumstances where a party considers it unlikely the parties will reach agreement, within the required period, to establish an HSC.
80	A relevant union for a worker affected by an issue can be a party to the issue (with the relevant union notifying the PCBU in writing).
85	HSR may issue a written cease work notice to the PCBU.
85A	Contents of a <u>cease work notice</u> .
92, 94, 100	<p>Timeframe reduced for:</p> <ul style="list-style-type: none">• compliance with provisional improvement notice (PIN) from 8 days to 4 days• requesting review of PIN reduced from 7 days to 3 days. <p>An HSR can change the day by which a contravention is to be remedied with the agreement of the person to whom the notice was issued (or the PCBU if the notice was issued to a worker).</p>
102A	New definitions for health and safety committee matter, WHS matter, work group determination matter, work group variation matter
102AA	Brings matters into the dispute resolution process, including work group determinations and variations, and HSC matters where an inspector has made a decision, and other WHS matters.
102B	A 24-hour wait is no longer required before notifying registrar. The notice of disputes is to include any compliance power decision made by an inspector appointed for to assist the parties.
102BA	Clarifies the involvement of an inspector in disputes about WHS matters.
102D	QIRC can review a decision made by an inspector about work groups and HSCs; or an inspector's decision about a compliance matter.



PROVISION DATES

29 July 2024

The following changes are now live.

Section	Summary of change
105, 112, 114	New element to discriminatory conduct for treating a worker less favourably than other workers. Discriminatory or coercive conduct civil proceedings now in the QIRC's jurisdiction.
229EA	Costs of external reviews by the QIRC.
255, 258, 259, 262, 263	WHS civil penalty provisions now in the QIRC jurisdiction.
260, 261	Standing to bring civil penalty proceedings for particular matters to include a relevant union, EPH, and a person who is affected by the contravention or alleged contravention.
Part 16, Division 8, Subdivision 2	Transitional provisions for changes in the Amendment Act.
Schedule 5	New definitions for cease work notice, confidential commercial information, health and safety committee constitutional matter, work group agreement variation matter, and work group determination matter.



PROVISION DATES

29 July 2024

The following changes are now live.

Work Health and Safety Regulation 2011

Section	Summary of change
16	Clarifying when a HSR is 'readily accessible'.
20	Confirming the resources, facilities and assistance that should be made available to HSRs to perform their roles.
21	Changing the training timeframes for HSRs to ensure that initial training is completed within 28 days after their election and refresher training every 12 months after that.
57	Reintroducing audiometric testing for workers at risk of hearing loss associated with noise that exceeds the exposure standards for noise. (To commence from 29 July 2025)

Industrial relations (Tribunals) Rules 2011

Section	Summary of change
70	Costs for reviews under section 229EA of the Work Health and Safety Act 2011 will be made with regard to the Uniform Civil Procedure Rules 1999.

TO BE ANNOUNCED

Further announcements will be made in due course for the remaining provisions to be commenced. This includes:

- provision of information contained in improvement, prohibition and non-disturbance notices by the regulator to HSRs and EPHs on request
- power to prescribe high risk plant and minor amendment to the Public Health Act.

Work Health and Safety and Other Legislation Amendment Act (WHSOLA) 2024

Changes in effect and upcoming (*indicative only, and subject to change*)

28
MARCH
2024

- [Prohibition on insurance for fines](#)
- Rail Safety National Law (Queensland) clarification

20
MAY
2024

- Worker representation and consultation
- Entry permit holders
- Regulator information sharing and disclosure of information
- Inspector powers
- Timeframe to request prosecutions
- Code of practice reviews
- Process to establish industry sector standing committees
- Name change of consultative committee

29
JULY
2024

- Election of health and safety representatives
- Power of health and safety representatives
- Health and safety representatives' choice of training provider
- Health and safety representatives' choice of training provider and new training timeframes
- Employer obligations to health and safety representatives
- Cease work notices
- Worker representation and consultation
- Establishing health and safety committees
- Accompanying entry permit holders on site

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Work Health and Safety and Other Legislation

Amendment Act 2024

New laws strengthen worker protection and representation



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Building safer workplaces together

New laws strengthen worker protection and representation.

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*Work Health and Safety and Other
Legislation Amendment Act 2024*

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Clarified and strengthened
Entry Permit Holder provisions
apply from 20 May 2024.

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*Work Health and Safety and Other
Legislation Amendment Act 2024*



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Work Health and Safety and Other Legislation Amendment Act 2024

There is now a prohibition on using, entering or benefiting from insurance arrangements to pay fines.

Review and revise your insurance arrangements before penalties begin to come into effect from September 2024.

**SCAN CODE TO
LEARN MORE**



HELPFUL LINKS



Web links

- [WHSOLA Act webpage - user friendly information](#)
- [Work Health and Safety and Other Legislation Amendment Act 2024](#)
- [Prohibition on insurance for fines](#)
- [Safety and prevention](#)
- [PCBU's and consultation](#)
- [Committees and HSRs](#)
- [Consultation resources](#)

PDF's

- [Review of the Work Health and Safety Act 2011 - Final Report](#)

Videos

- [Understanding the HSR role](#)

