

# Fact sheet

## Consulting workers

September 2022

### Why do I need to consult with workers?

Under the *Work Health and Safety Act 2011* (WHS Act), a person conducting a business or undertaking (PCBU) must, so far as is reasonably practicable, consult with workers who carry out work for the business or undertaking who are, or are likely to be, directly affected by a matter relating to work health or safety. A worker is broadly defined to mean a person who carries out work in any capacity for a business or undertaking and includes employees, outworkers, apprentices, trainees, students gaining work experience, volunteers, contractors or subcontractors and their employees.

### When is consultation required?

Under the WHS Act, a PCBU, including a mine operator, must consult with workers when:

- identifying hazards and assessing risks to health and safety arising from the work carried out or to be carried out by the business or undertaking
- making decisions about ways to eliminate or minimise those risks
- making decisions about the adequacy of facilities for the welfare of workers
- when proposing changes that may affect the health or safety of workers
- making decisions about procedures for consulting with workers, resolving health or safety issues, monitoring the health of the workers, monitoring the conditions at the workplace and providing information and training for the workers.

In addition, under section 115 of the *Work Health and Safety (Mines and Petroleum Sites) Regulation 2022* (the Regulation), a mine operator must consult with workers at a mine in relation to:

- developing, implementing and reviewing a safety management system for a mine or petroleum site
- conducting risk assessments for principal hazard management plans
- conducting risk assessments for principal control plans
- preparing, testing and reviewing an emergency plan for the mine or petroleum site
- implementing a workers' safety role
- developing and implementing strategies to protect people at a mine or petroleum site from any risk to health and safety arising from:
  - consuming alcohol or drugs
  - fatigue.

# What is consultation?

To help ensure that consultation is effective, the WHS Act prescribes some minimum requirements. Under the WHS Act, consultation requires that:

- relevant information about the matter is shared with workers
- workers are given a reasonable opportunity to express their views, raise work health or safety issues and contribute to the decision-making process relating to the matter
- the views of workers are taken into account by the PCBU
- workers are advised of the outcome of the consultation in a timely manner
- if the workers are represented by a health and safety representative, the consultation must involve that representative.

At a coal mine, if the workers are represented by mine safety and health representatives, the consultation must also involve those representatives.

## Workers' safety role

Under section 114 of the Regulation the mine operator of a mine or petroleum site must implement a safety role for the workers at the mine or petroleum site that enables the workers to contribute to:

- identifying principal hazards that are relevant to the work that the workers are, or will be carrying out
- considering control measures for risks associated with principal hazards at the mine or petroleum site
- considering control measures for risks to be managed under principal control plans
- conducting a review of a principal hazard management plan.

Implementing a workers' safety role does not require creating positions or functions. Rather, it requires the mine operator to ensure that the consultation arrangements include effective consultation on the matters specified. SafeWork NSW's work health and safety consultation, cooperation and coordination code of practice (August 2019) at Section 1.2 Why is consultation important? states:

*A safe workplace is more easily achieved when everyone involved in the work communicates with each other to identify hazards and risks, talks about any health and safety concerns and works together to find solutions. This includes cooperation between, duty holders, the people who manage or control the work and those who carry out the work or who are affected by the work. By drawing on the knowledge and experience of their workers, PCBUs can make more informed decisions about how the work should be carried out safely.*

The workers' safety role aims to ensure the specific and active participation of workers in consultation on principal mining hazards and the control measures under principal control plans.

## More information

[Work Health and Safety Consultation, Cooperation and Coordination code of practice: SafeWork NSW August 2019](#)

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RDOC22/189530