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TWU – VIC/TAS

Jan 2009

OHS GUIDANCE NOTE - No. 4

“Consultation”

WHAT’S THE PROBLEM?

Does your company consult with you and your Health & Safety Representative (HSR) or are you told what is going to happen?

CONSULTATION: (Con-sul-tay-shun):

Noun

1.

consultation - a conference (usually with someone important); "he had a consultation with the judge"; "he requested an audience with the king"
[interview](#), [audience](#), [group discussion](#), [conference](#) - a discussion among participants who have an agreed (serious) topic.

-Employers are required to consult with workers and/or Health and Safety Representatives (HSR's) on matters directly affecting their health and safety.

LEGISLATION:

“Occupational Health and Safety Act 2004”

No. 107 of 2004

Version incorporating amendments as at 23 February 2007

Division 2—Main duties of employers

PART 4—DUTY OF EMPLOYERS TO CONSULT

35. Duty of employers to consult with employees

(1) When doing any of the following things, an employer must so far as is reasonably practicable consult in accordance with this Part with the employees of the employer who are or are likely to be directly affected by the employer doing that thing—

- (a) identifying or assessing hazards or risks to health or safety at a workplace under the employer's management and control or arising from the conduct of the undertaking of the employer;
- (b) making decisions about the measures to be taken to control risks to health or safety at a workplace under the employer's management and control or arising from the conduct of the undertaking of the employer;

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- (c) making decisions about the adequacy of facilities for the welfare of employees of the employer;
- (d) making decisions about the procedures for any of the following—
 - (i) resolving health or safety issues at a workplace under the employer's management and control or arising from the conduct of the undertaking of the employer;
 - (ii) consulting with employees of the employer in accordance with this Part;
 - (iii) monitoring the health of employees of the employer and the conditions at any workplace under the employer's management and control;
 - (iv) providing information and training to employees of the employer;
- (e) determining the membership of any health and safety committee;
- (f) proposing changes, that may affect the health or safety of employees of the employer, to any of the following—
 - (i) a workplace under the employer's management and control;
 - (ii) the plant, substances or other things used at such a workplace;
 - (iii) the conduct of the work performed at such a workplace;
- (g) any other thing prescribed by the regulations for the purposes of this sub-section.

36. How employees are to be consulted

- (1) An employer who is required to consult with employees must do so by—
 - (a) sharing with the employees information about the matter on which the employer is required to consult; and
 - (b) giving the employees a reasonable opportunity to express their views about the matter; and
 - (c) taking into account those views.
- (2) If the employees are represented by a health and safety representative, the consultation must involve that representative (with or without the involvement of the employees directly).
- (3) Subject to sub-sections (1) and (2), if the employer and the employees have agreed to procedures for undertaking consultations, the consultation must be undertaken in accordance with those procedures.

The TWU Vic/Tas Branch (OH&S section) formulated this code. It is offered as a broad guide to assist with members. Further information is available for Members who can contact the *TWU Health and Safety Section* or the TWU Member Assist Officer for a copy the Union's Policy. Should further information be required please contact us on -

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