



Government of Western Australia
Department of Mines, Industry Regulation and Safety

MINES SAFETY AND INSPECTION ACT – WHAT EMPLOYEES AND EMPLOYERS NEED TO KNOW

Elected safety and health representatives

Are safety and health representatives the same as inspectors?

Safety and health representatives do not have the same jobs as safety and health officers or inspectors, and are not responsible for solving safety and health matters at the mine site.

However, elected safety and health representatives do represent fellow workers on safety and health matters, and carry out specific functions related to mine site safety and health.

Elected safety and health representatives facilitate increased participation and improved consultation between employees and employers so that mine sites become safer and healthier.

What powers do safety and health representatives have?

Safety and health representatives for a mine have the powers needed to carry out their functions, as outlined below.

The mine manager and all employers must consult with safety and health representatives on intended changes to the mine, plant or substances where those

changes may reasonably be expected to affect employees' safety or health.

In addition, if requested by an employee, employers must permit a safety and health representative to be present at an interview with the employee concerning the occupational safety or health of workers at the mine. Safety and health representatives may inspect any part of a mine at any time agreeable to the mine manager, who must ensure a suitably experienced person arranges their safe conduct.

In the event of an accident, dangerous occurrence or where there is risk of imminent serious injury, the safety and health representative can carry out an appropriate investigation.

Safety and health representatives must immediately report to the mine manager and employer any hazard or potential hazard that comes to their attention, and consult and cooperate with the manager, employers and employee's inspectors on all matters relating to the safety and health of persons at the mine.

Safety and health representatives must also refer appropriate matters to the safety and health committee for its consideration.

How are safety and health representatives elected?

An employer or employee can start the process to elect safety and health representatives. In this context, contractors and their employees are also regarded as employees of the principal who engages the contractor.

When requested by an employee, the employer has up to 21 days to invite employees to appoint delegates to participate in consultation about the election.

The election should be held within a reasonable time of the initial decision.

What matters have to be agreed before the election?

Before the election is held (or a single nominee appointed), the employer and employee's delegates must discuss and agree on the matters relevant to the election of safety and health representatives.

It is useful for all parties to have this agreement in writing.

Matters to be discussed and decided should include:

- the areas, matters and kinds of work over which the safety and health representatives will exercise their functions
- the number of safety and health representatives to be elected
- how and when the election process will be carried out (it must be by secret ballot)
- who will run the election (a person at the mine site, a union, an employer group, the Electoral Commission or any other person can conduct the election)
- what will happen if a vacancy arises during a safety and health representative's term (due to FIFO roster, ceasing employment, resigning or being disqualified).



What is an election scheme?

If the parties in the workplace require more flexibility to elect safety and health representatives, then an alternative scheme may be adopted.

What do we have to do if we want a scheme?

The employer and employee delegates need to consider the following if they wish to have a scheme:

- identify and define the workplaces or groups that the safety and health representatives will represent
- decide whether a contractor and/or the employees of the contractor can be safety and health representatives
- identify workplaces at which there are employees who will be affected by the proposed scheme
- decide whether the scheme is to apply to future elections
- decide how matters relating to the election scheme can be changed after it is set up.

Regarding the first item if not already done, the employer must invite employees at that workplace to appoint a delegate to consult on the election of a safety and health representative.

A scheme cannot apply to workplaces where this has not been done.

Agreements made under an election scheme must be in writing.

How is the election conducted?

The election is conducted in the way agreed during the consultation and in accordance with the agreed election scheme, if there is one.

Employees at a mine or who are members of a distinct unit of the employer's workforce may, by secret ballot, elect one of their members as a safety and health representative.

Every relevant employee is entitled to vote. Relevant employees are those working in the workplace to be represented by the elected safety and health representatives.

If only one eligible candidate is nominated, a ballot is not needed and the candidate is elected unopposed. The person elected holds office for two years.

Who is eligible to be a safety and health representative?

Any employee who works at a mine is eligible for election as a safety and health representative.

Depending on the election scheme, there may also be provision for a contractor or persons employed by a contractor to be treated as an employee of the principal employer, and therefore be eligible for election.

Safety and health representatives elected to represent fellow underground miners must have at least 12 months of underground mining operations experience.

What happens after the election?

After the election of a representative or representatives, the person conducting the election must advise the State Mining Engineer of the results.

Notification of election is completed online via the Department's Safety Regulation System (SRS).

What training is needed to be a safety and health representative?

Within 12 months of being elected, a safety and health representative has the right to attend an accredited training course. However, to be able to fulfill all the functions, safety and health representatives should try to enrol in an accredited introductory training course with the first three to six months.

Will being a safety and health representative adversely affect my career?

It is an offence under the *Mines Safety and Inspection Act 1994* for an employer to discriminate against or disadvantage an employee

or contractor for the dominant or substantial reason that they are or have been a safety and health representative.

Can a safety and health representative be sued?

The *Mines Safety and Inspection Act 1994 Act* provides an important and necessary protection for safety and health representatives elected in accordance with the Act. They cannot be sued for damages for anything arising from having performed, or even failing to perform, any function related to the position. However, they do have the same responsibilities and general duties of care as any other employee.

Want to know more?

For information on safety and health in the mining industry, visit Department's website at www.dmirs.wa.gov.au

The *Mines Safety and Inspection Act 1994* and Mines Safety and Inspection Regulations 1995 are available from the State Law Publisher's website at www.slp.wa.gov.au

The information in this brochure is intended as a general guide only. The relevant Acts and regulations should be consulted for detailed information, or contact your regional inspectorate.



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