

Amendments to the Occupational Health and Safety (Commonwealth Employment) Act 1991

- Information on the OHS(CE) Amendment Act 2006

Certification of employee representatives

Purpose

To advise employers, employees and employee representatives of amendments to the *Occupational Health and Safety (Commonwealth Employment) Act 1991* (the Act) providing for the issue of certificates to employee representatives, where the employee(s) represented wish to remain anonymous [See definition of 'employee representative' in information sheet on *Consultation on workplace OHS arrangements*].

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Overview

The amendments to section 16 of the Act require employers to develop health and safety management arrangements (HSMAs) in consultation with employees [see information sheet on *HSMAs*]. The provisions of new subsection 16A(2) allow the employee to be represented by another employee or an employee representative [see information sheet on *Consultation on workplace OHS arrangements*].

A new provision has been inserted (section 16B) that enables the CEO of Comcare to provide a certificate to an employee representative, entitling them to represent an employee or group of employee(s), where the employees being represented wish to remain anonymous during consultations on HSMAs.

When is a certificate required?

This provision only concerns the situation where employees want to remain anonymous. Subsection 16B(10) confirms that employee representatives are not otherwise required to obtain a certificate to represent employees in consultation with their employer.

Applying for a certificate

An application for a certificate of representation must be made by an employee representative to the CEO of Comcare.

New subsection 16B(2) requires that the application be in ‘the prescribed form’. The application form will seek:

- names of employee(s) seeking anonymous representation
- details of the employee representative
- details of the employer representative’s association or registered organisation
- name of the employer
- address of the employer
- details of the proposed consultation that the certificate will cover

Before issuing a certificate under subsection 16B(1) the CEO of Comcare must be satisfied that the employee(s) to whom it relates have requested:

- representation by the employee representative and
- that their identity not be revealed.

Form of the certificate

Subsection 16B(3) requires a certificate issued by the CEO of Comcare to identify:

- the employee representative
- the employer and
- the proposed consultations.

It must not identify the employee(s) concerned.

Conditions applying to the certificate

The employee representative to whom the certificate has been issued must not reveal the identity of the employee(s) to whom it relates (subsection 16B(4)).

Subsection 16B(5) provides that the certificate will cease to have effect at the earlier of:

- the time when each of the employees covered by the certificate has requested that the certificate cease to have effect; and
- twelve months after the certificate was issued.

Subsection 16B(6) provides that if the employees covered by the certificate request for the certificate to cease, the CEO of Comcare must notify the employee representative and the employer in writing.

Further information

2006 Amendments Information Sheet Series:

- Health and safety management arrangements (HSMAs)
- Consultation on workplace OHS arrangements
- Operation of workplace consultative arrangements
- Administrative and technical amendments

References

Occupational Health and Safety (Commonwealth Employment) Act 1991
Occupational Health and Safety (Commonwealth Employment) Regulations 1994

Contacts

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