

AT A GLANCE

Your Rights/Obligations: Victoria OHS Act 2004

Your Rights as a Worker	VICTORIA OHS ACT 2004
To have your health and safety ensured.	Section 21
Be consulted on health and safety issues that affect you including any proposed changes that the employer wants to make that may impact OHS.	Section 35 & 36
Be represented by a Health and Safety Representative elected by your group.. You can stand for election as a HSR.	Section 54
Be provided with safe systems of work, which includes plant or systems of work; the use, handling storage or transport of substances and plant [that includes equipment and machinery].	Section 21.2.
Be provided with facilities for your welfare at work like toilets, lunchrooms, first aid.	Section 21(2)(d)
Be provided with the information, instruction, training and supervision you need to do your job safely.	Section 21.2.e Section 39
Have the employer monitor your health and conditions at the workplace and be provided with facilities at work. [for certain exposures eg some chemicals and noise, employer has obligation to conduct health surveillance]	Section 22.1
Request that the employer discuss with workers the establishment of a Work Group to elect a HSR	Section 43
Have the AMWU represent you in negotiations for the Work Group	Section 44.5 Remember AMWU could be a delegate or union organiser or health and safety officer
Request the AMWU to run HSR elections [Remember AMWU could be delegate or union organiser or health and safety officer]	Section 54(4). Workers in the group determine who and how the election will be conducted and they can decide that this will be their union delegate
Refuse to perform work you reasonably think would expose you to a serious risk that is also immediate and imminent	This is covered by your common law right to refuse immediately unsafe work
Ask for the help of your HSR to direct that unsafe work cease	Section 74

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Have your HSR present at any interview between you and your employer/PCBU or a H&S Inspector	Section 58(1)d.&e.
Protection from discrimination, coercion or threats in relation to a health & safety matters	Section 76, 78A and 78B That includes speaking with the union or WorkSafe about H&S matters
Have your HSR seek the assistance of any person such as the union to assist with any of your OHS matters.	Section 58(1)(f)
Ask for the review of a Health and Safety Inspector's decision that affects you (including if the Inspector decides to do nothing). You need to get expert advice from the AMWU when exercising this right, as it does not apply to all decisions an Inspector makes	Sections 63 PINS Section 75 Cease work
Change your HSR, if the majority of members of the DWG resolve in writing but only if HSR has been in the role for more than 12 months.	Section 55.2.d
If needed, be provided with accommodation, which does not expose worker to hazards	See the compliance code on workplace amenities and environment

Your Obligations as a Worker	VICTORIA OHS ACT 2004
Take reasonable care and not wilfully or recklessly endanger health and safety of yourself or others	Section 25
Cooperate with employer in respect to any action taken by the employer to comply with the Act or Regulations.	Section 25.1.c.
Report health and safety issues to the elected H&S Rep/Deputy, including leaving your area of work to report the hazard/risk	OHS Regulation 2.2.3

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WHAT A HEALTH & SAFETY REPRESENTATIVE CAN DO ¹	VICTORIA OHS ACT 2004
Represent workers, in their Designated Work Group, on health and safety matters.	Section 58.2 Term is 3 years
Attendance at approved HSR training. Victoria: Contact AMWU office 9230 5700 for enrolment, and ComCare training. Western Australia: Contact Unity Training (08) 9227 7809 for enrolment and Comcare training.	Initial 5 days then 1 day refresher per year.
Paid leave to attend training, the course is to be chosen by HSR, in consultation with Employer.	Section 67 HSR must make request more than 14 days from the date of the course.
Employer must consult with you about health and safety matters that affect member of your workgroup.	Section 35 & 36 Regulations 2.1.5
<u>Direct work to cease</u> that is an imminent or immediate risk.	Section 74
<u>Issue a Provisional Improvement Notice (PIN)</u> requiring the employer to take certain actions, after previously consulting with the employer about the H&S issue.	Section 60
<u>Request a review of control measures</u> because there has been a change or new risk/hazard has been identified or consultation indicates a review of risk controls is needed.	Regulations: in the specific hazard regulations eg Regulation 3.3.1, 3.2.9 & 3.3.8 etc.
You have <i>no duties</i> and are <i>not personally liable for health and safety matters</i>.	Section 58.3
Enquire into any health and safety risk Be consulted on issues affecting H&S of work group members	Section 58.2
Inspect the workplace, immediately in case of immediate risk or at any time after giving reasonable notice [in WA, if there has not been an inspection in the previous 30 days].	Section 58.1

¹ Remember Health and Safety Representatives still have rights and obligations as workers.

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Accompany an Inspector.	Section 58.1
Monitor the measures taken by the employer.	Section 58
Be present at an interview with inspector or employer and workers [you need workers consent].	Section 58.1
Request the establishment of a Health & Safety Committee.	Section 72
Receive information concerning hazards, Be allowed time off, with pay to perform your role.	Section 69
Request the assistance of any person. Note this could be another HSR, a fellow worker, union delegate or organiser.	Section 58.1.f Section 70 -- If person form outside the workplace
Represent members of another work group if there is a serious risk, or you are asked and the HSR for that workgroup is not found.	Section 59
Be provided with resources, facilities and assistance. Be provided with information on H&S matters.	Section 69
Employer must allow access to workplace to a person assisting you [eg union organiser or health and safety officer].	Section 78
Be contacted when a H&S inspector visits your work group.	Section 102

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WHAT A UNION ORGANISER CAN DO	VICTORIA OHS ACT 2004
When invited by a worker, negotiate with the workers employer when setting up or changing work groups and numbers of HSRs and deputies.	Section 44
When requested by the majority of the workers in a work group, run the election of HSR and Deputy.	Section 44(5)
Negotiate resolution of WHS issues, as a representative of workers [employer organisations can do the same for the employer].	Regulations Part 2.2
Assist HSRs (when invited by a HSR).	Section 58.1.f & Section 70
A trained union official with an Entry Permit may enter a workplace for the purpose of inquiring into a <u>suspected contravention</u> of the law.	Section 87
A union official with an Entry Permit may inspect anything relevant to the <u>suspected contravention</u> ; consult with relevant workers and consult with the employer.	Section 89 Union official must have attended training
A union official may warn any person who they reasonably believe is exposed to a serious risk to health and safety. Note: the union official <u>cannot</u> order a cease work or issue a PIN.	Section 90 Union official must have attended training