

EMPLOYMENT INSTRUCTION NUMBER 12

OCCUPATIONAL HEALTH AND SAFETY PROGRAMS

1. SCOPE AND PURPOSE

This Employment Instruction establishes the requirements of an agency's occupational health and safety program. As agencies will vary significantly in the occupational health and safety issues they face, it is envisaged that the programs will also vary.

This Employment Instruction should be read in conjunction with the *Workplace Health and Safety Act*; the *Workplace Health and Safety Regulations* and guidance material from NT WorkSafe. The intent of this Employment Instruction is to provide guidance in relation to agencies' obligations in relation to occupational health and safety. Where an inconsistency arises, the *Workplace Health and Safety Act* and its subordinate legislation and material will prevail.

2. LEGISLATIVE BASIS

Section 13(m) of the *Public Sector Employment and Management Act* requires the Commissioner to consult with Chief Executive Officers on the development of appropriate standards and programs of occupational health and safety.

Section 24(k) of the *Public Sector Employment and Management Act* requires Chief Executive Officers to ensure the application in their agencies of appropriate health and safety standards and programs.

3. AGENCY ACTION REQUIRED

Chief Executive Officers will develop programs that ensure employees and their representatives are consulted in the development and implementation of occupational health and safety programs in the agency, including:

- reaching agreement with employees about the formation of work groups;
- providing information, facilities and training for health and safety representatives and occupational health and safety committees;
- identifying, eliminating or managing risk and hazards within their agencies; and
- ensuring that all employees, especially new starters, are provided with information about occupational health and safety policies and their obligations

for their own health and safety and the health and safety of others under the Code of Conduct (Employment Instruction 13) and the *Workplace Health and Safety Act* and subordinate legislation.

4. REPORTING REQUIREMENTS

Under section 28(2) (h) of the *Public Sector Employment and Management Act*, a Chief Executive Officer must report annually on occupational health and safety programs in their agency.

Under the *Workplace Health and Safety Regulations*, records must be kept of:

- risk assessments (Regulation 38);
- maintenance of control measures (Regulation 40); and
- information, instruction and training provided to employees (Regulation 43).

Chief Executive Officers should also ensure that there are mechanisms in place to capture and report reportable incidents as required under sections 64 and 65 of the *Workplace Health and Safety Act*

Regulation 46 details the accidents which must also be reported to the Work Health Authority ("NT WorkSafe"), which may carry out an investigation into the cause of the accident.

5. RESPONSIBILITIES UNDER THE *Workplace Health and Safety Act*

The *Workplace Health and Safety Act* imposes a general statutory duty of care on employers to ensure that, as far as reasonably practicable, employees and others are not exposed to risks to health or safety arising from conduct of the employer's business. In particular the *Workplace Health and Safety Act* requires employers to:

- identify hazards;
- identify, and assess the seriousness of risks, resulting from the hazards;
- determine appropriate risk management measures;
- put the risk management measures into effect;
- monitor and review the effectiveness of the measures;
- ensure that the workplace, and the means of entering and leaving it, are safe;
- ensure that workplace infrastructure or equipment, and workplace materials are safe;
- ensure that employees are, where necessary, properly instructed in the use and warned about risks involved in the use, of workplace infrastructure or equipment, and workplace materials;

- consult with employees to enable the employees to contribute to the making of decisions affecting their health and safety at work;
- negotiate with employees about the formation of work groups within their businesses;
- make information on health and safety issues affecting the members of the relevant work group available to a health and safety representative, on request; and
- allow health and safety representatives to attend appropriate approved courses of training, with time off from work on full pay and the payment of reasonable costs associated with attendance at the course.

The *Workplace Health and Safety Act* also imposes obligations on employees. In particular, employees are required to:

- take reasonable care for their own health and safety and for the health and safety of others, while at work;
- follow reasonable directions given by, or on behalf of the employer on issues related to health or safety;
- use relevant safety equipment provided for the employee's use; and
- report workplace accidents to the employer as soon as practicable after they occur.

6. CONSULTATION

The *Workplace Health and Safety Act* obliges employers and employees to consult about occupational health and safety matters. In particular, it requires employers and employees to reach agreement about such matters as the formation of work groups.

Agreements in relation to the formation of work groups or variations to work groups must be evidenced in writing.

One way of undertaking this consultation is through an occupational health and safety committee.

Under the *Workplace Health and Safety Act*, a health and safety committee must be established at a workplace where more than 20 people are employed, if it is requested by a majority of employees or by a health and safety representative.

The committees are essentially advisory in nature and their composition, functions and operations are set out in sections 45 to section 48 of the *Workplace Health and Safety Act*.

In accordance with the *Workplace Health Safety Regulations* (Regulation 44), Chief Executive Officers must consult with health and safety committees if they are established, and, where possible, with all employees in relation to control of risks to health and safety so as to provide a genuine opportunity for employees to contribute to the decision making process.

7. WORK GROUPS

Chief Executive Officers will negotiate with employees and relevant Northern Territory Public Sector unions about the formation of work groups. These work groups are formed by agreement. Each employee can only be a member of one work group at a time. If agreement cannot be reached then the matter can be referred to NT WorkSafe for resolution.

The *Workplace Health and Safety Act* provides considerable flexibility in relation to the constitution of a work group

Under the *Workplace Health and Safety Act* a work group is defined as a group of ten or more workers.

From the Northern Territory Public Sector perspective, a work group can consist of:

- all the employees of an agency;
- all the employees of an agency in a particular workplace;
- all the employees of two or more agencies in a particular workplace or location; or
- a particular class of employees of an agency at a particular workplace.

Negotiations for the formation of work groups should ensure that practicable solutions are reached that ensure the occupational health and safety of employees and visitors as well as the effective operations of agencies.

8. HEALTH AND SAFETY REPRESENTATIVES

In accordance with the *Workplace Health and Safety Regulations*, members of work groups may elect a health and safety representative from amongst their members. The term of office for health and safety representatives will be for two years, unless ceased earlier either through leaving their work groups, resignation or disqualification.

In relation to their relevant work group, the functions of health and safety representatives are to:

- inquire into occupational health and safety issues affecting employees;
- assist employees in their dealings with management and workplace safety officers from NT WorkSafe on occupational health and safety issues;
- ensure that matters of concern to employees on occupational health and safety issues are brought to the attention of management;
- mediate between employees and management on occupational health and safety issues;
- assist in the resolution of problems affecting the health or safety of employees;

- issue a notice of safety hazard in appropriate circumstances; and
- issue a direction to an employee to stop work in a case of serious and immediate risk to the health and safety of the employee.

Each agency will be responsible for ensuring health and safety representatives will be provided with NT WorkSafe-accredited training and other resources and information required for them to perform their duties.

There are provisions in the *Workplace Health and Safety Act* for disqualification of a health and safety representative from office.

9. ACCREDITED TRAINING

Chief Executive Officers should ensure that elected health and safety representatives are provided with approved training within three months of their election. NT WorkSafe accredits training providers for delivery of health and safety representative training. Procurement of accredited training will need to comply with normal Northern Territory Government procurement guidelines and Treasurer's Directions.

As well as accredited training for health and safety representatives, Chief Executive Officers must ensure that employees are provided with sufficient information, training and supervision to ensure that they are able to work safely. Training could include induction, ongoing training in safety and training about new systems of work.

10. HEALTH AND SAFETY COMMITTEES

The *Workplace Health and Safety Act* provides for the establishment of workplace health and safety committees. Most Northern Territory Public Sector agencies already have these in place. The functions of health and safety committees under the *Workplace Health and Safety Act* are similar to those already identified for existing committees. Health and safety committees are essentially consultative bodies that work with Chief Executive Officers to initiate, develop and implement measures designed to ensure the health and safety of employees in the workplace. Chief Executive Officers will provide health and safety committees with sufficient resources and information to enable them to carry out their duties. Elected union delegates, in those workplaces that have them, could be included as members of a workplace health and safety committee.

11. AUTHORISED UNION OCCUPATIONAL HEALTH AND SAFETY REPRESENTATIVES

Under the *Workplace Health and Safety Act*, NT WorkSafe may appoint an officer or employee of a trade union as an authorised occupational health and safety representative. Subject to the *Workplace Health and Safety Act*, an authorised union occupational health and safety representative can enter Northern Territory Public Sector workplaces for authorised purposes, which are either:

- to hold discussions on occupational health and safety matters during a lunch break or other break in work with employees who are or who are eligible to become members of the relevant union; or

- for the investigation of a suspected contravention of the *Workplace Health and Safety Act* involving a member of the relevant union.

It is anticipated that these powers will be exercised in a cooperative, consultative and collaborative manner. Although there are provisions for the disqualification of an authorised union health and safety representative, it is anticipated that where difficulties arise, agencies will attempt to resolve them through negotiation with the representative's union. If necessary, the agency can seek the assistance of the Office of the Commissioner for Public Employment.

12. DEVELOPMENT OF OCCUPATIONAL HEALTH AND SAFETY PROGRAMS

In developing programs, agencies should refer to Australian industry best practice standards where they exist. In order to meet legislative requirements, occupational health and safety programs must, at a minimum:

- define policies and programs to be observed within the agency;
- effectively communicate these policies and programs to employees;
- allocate responsibilities and accountabilities through the management structure;
- integrate occupational health and safety into all supervisory and management responsibilities;
- require contractors and suppliers to conform to health and safety standards;
- systematically identify, assess and control risks to health and safety in the workplace;
- encompass active management of employees' compensation claims and rehabilitation programs;
- encourage consultation with employees and their representatives and their participation in the decision making process; and
- include appropriate training and information sharing with employees, members of health and safety committees and health and safety representatives.

13. MANAGING HEALTH AND SAFETY WITHIN AGENCIES

In developing an occupational health and safety program, Chief Executive Officers should refer to the *Workplace Health and Safety Regulations* which set out certain mandatory requirements for managing health and safety within agencies.

NT WorkSafe has produced guidelines for safety management which outline the essential features of a safety management system, and includes a checklist to help assess whether these features are in place.

13.1 Assessment and Control of Risk

Part 6 of the *Workplace Health and Safety Regulations* sets out in detail the steps to be followed in relation to the assessment and control of risk in the workplace, including:

- compliance with relevant codes of practice;
- hazard identification and risk assessment;
- risk management, including specific risk management plans for hazardous activities;
- maintenance of control measures;
- monitoring of hazards;
- health surveillance;
- information, instruction and training;
- consultation; and
- maintenance of records.

13.2 Control Measures

An employee's exposure to a hazard must be controlled through the progressive application of one or more of the following measures:

- elimination of the hazard;
- substitution of the hazard with something less hazardous;
- isolation of the hazard from the employee;
- engineering means;
- administrative means, including safe work practices; and/or
- use of personal protective equipment.

The most effective control measures are towards the top of this hierarchy. Those which are lower down may initially appear more attractive but require more intensive training and supervision. The type of control measure used will depend upon what is practicable for a particular situation.

13.3 Performance Standards

Workplace Health and Safety Regulations set the minimum performance standards which must be met in all workplaces. The method of achieving those standards is at the discretion of agencies and would be part of an agency's occupational health and

safety program, developed in consultation with employees affected by the performance standards. This approach is consistent with the self regulatory nature of the Work Health legislation and will require supervisors and managers to exercise a degree of judgement.

14 OCCUPATIONAL HEALTH AND SAFETY COORDINATION, COMPLIANCE AND SUPPORT

Three agencies have whole-of-sector responsibilities in relation to the implementation of the *Workplace Health and Safety Act* in the Northern Territory Public Sector: the Office of the Commissioner for Public Employment, the Department Business and Employment, and NT WorkSafe. The respective roles are summarised below.

14.1 Office of the Commissioner for Public Employment

Although final settlement of disputes under the *Workplace Health and Safety Act* rests with NT WorkSafe, the Office of the Commissioner for Public Employment can provide assistance to employees and agencies in resolving difficulties associated with the formation of work groups, election or performance of health and safety representatives or concerns about the behaviour of authorised union occupational health and safety representatives.

In addition to this, the Commissioner for Public Employment has a number of statutory functions in relation to occupational health and safety in the Northern Territory Public Sector. More information about these and the relevant Employment Instructions can be found on the Office of the Commissioner for Public Employment web site:

www.ocpe.nt.gov.au

14.2 Department of Business and Employment

The Department of Business and Employment performs a number of services for Northern Territory Public Sector agencies in relation to occupational health and safety, principally:

- brokage service for Northern Territory Public Sector Health and Safety Representatives;
- assisting agencies to develop and implement occupational health and safety risk management plans;
- collating occupational health and safety statistics on a service-wide basis and providing advice on trends and appropriate strategies; and
- conducting occupational health and safety audits at an agency system and planning level and assist agencies to develop self-inspection and follow-up capability;
- helping agencies develop self-inspection capability; and

- monitoring effectiveness of internal processes and any corrective actions taken.

Useful occupational health and safety material can be found on the Department of Business and Employment web site at:

http://uluru.nt.gov.au/dcis/hr/forms_procedures.shtml#ohs

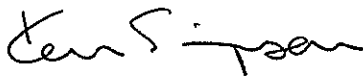
14.3 NT WorkSafe

As well as its role as the regulator, NT WorkSafe produces very detailed information bulletins about a range of topics associated with the *Workplace Health and Safety Act*, such as:

- the role of health and safety representatives;
- election of health and safety representatives;
- consultation; and
- the definition of "reasonably practicable".

See the NT WorkSafe web site at:

www.worksafe.nt.gov.au



K D SIMPSON

COMMISSIONER FOR PUBLIC EMPLOYMENT

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