

## TERMS OF REFERENCE

### PURPOSE/LEGISLATIVE MANDATE

The WHS Council is established under the *Work Health and Safety Act 2011* (the WHS Act). The Minister for Employment and Workplace Safety is the portfolio Minister.

### FUNCTIONS AND POWERS

The WHS Council provides advice to the Minister on matters relating to work health and safety (WHS), workers' compensation, workplace relations, bullying in the workplace and other workplace psychosocial matters generally. It also inquires into, and reports to the Minister on, matters referred to the WHS Council, as well as specific matters as set out in the WHS Act.

In addition, and without limiting the matters that the Council advises on generally, the WHS Council also advises the Minister on the:

- operation of the WHS Act and associated laws;
- approval of codes of practice, and the variation of codes of practice, under section 274 (Approved Codes of Practice) of the WHS Act;
- provision of education and training in relation to WHS;
- promotion of WHS;
- operation of the *Workers Compensation Act 1951*;
- approval of a protocol, or an amendment to a protocol, under the *Workers Compensation Act 1951*;
- provision of education and training in relation to workers' compensation;
- operation of the *Dangerous Substances Act 2004*; and
- operation of the *Workplace Privacy Act 2011*.

The WHS Council also provides advice to the Minister in relation to the development of:

- documents made by the WHS Commissioner, including the compliance and enforcement policy and strategic plan;
- the statement of expectations issued by the Minister; and
- matters arising from a review by the WHS Council, of the published annual report for the Office of the WHS Commissioner (known operationally as WorkSafe ACT).

The Chair of the WHS Council will also provide a statement for inclusion in the Office's annual report. The Chair and the Deputy Chair will be consulted as part of the appointment process for the WHS Commissioner.

## COUNCIL MEMBERSHIP

The WHS Council is made up of 12 Members:

- **ten** appointed Members:
  - **five** Members appointed by the Minister after consultation with the people or bodies that the Minister considers represent the interests of employees; and
  - **five** Members appointed by the Minister after consultation with the people or bodies that the Minister considers represent the interests of employers; and
- **two** ex-officio members:
  - the WHS Commissioner; and
  - the Public Sector Workers Compensation Commissioner.

## ACTING MEMBERS

The Minister may appoint a person to act as a WHS Council Member during a vacancy in the office or during any period when a relevant Member is absent from duty or from the Territory. Acting Members are appointed following the same process for appointing Members to the Council. Acting Members are able to act as a Member if they are appointed under the same provisions as the vacant or absent Member's office.

Acting Members will be invited to attend WHS Council meetings to ensure maximum representation of Members at all meetings should a Member be unable to attend and achieve a quorum where necessary.

## TERMS AND CONDITIONS OF APPOINTMENT

WHS Council Members are appointed for a term of four years. A Member may be re-appointed if they are still eligible for that position. However, a person who has been an appointed member of the WHS Council for eight consecutive years is not eligible for reappointment.

Members are not remunerated, except for the Chair, so long as they are not a public servant (or employed in the public sector).

## CHAIR AND DEPUTY CHAIR

The appointed Members of the WHS Council must elect a Chair and a Deputy Chair. The Chair and Deputy Chair must be elected for not longer than two years.

If the Chair is elected from the Members appointed after consultation with employee representatives, then the Deputy Chair must be elected from the Members appointed after consultation with employer representative group and vice versa.

## QUORUM AND VOTING AT COUNCIL MEETINGS

Before the WHS Council can conduct business, a quorum is required. A quorum of the WHS Council is constituted by six appointed Members, so long as there are:

- three Members from each category of appointed Members (Schedule 2, section 2.3 (1) (a) and (b) of the WHS Act); and
- two of the Members in each category must **not** be Acting Members.

At a meeting of the WHS Council, each appointed Member, including the Chair has a vote on each question to be decided. Each question put to a meeting is decided by a majority of the appointed Members present and voting.

## **MEETINGS**

Four meetings of the WHS Council are scheduled each year.

Additional meetings may also be held to progress specific matters. Only the Minister and Chair have the power to call a meeting of the WHS Council. At least five days' notice must be given of the meeting in writing, stating the date, time and place of the meeting and the matters to be considered. If the Chair receives a written request from five WHS Council Members, a meeting must be called.

## **MINUTES**

Minutes must be kept of all meetings. The purpose of the minutes is to record agreed decisions and actions required. Draft minutes of each meeting will be endorsed by the Chair and distributed to Members as soon as possible after each meeting for comment.

Approval of the most recent draft minutes will be considered out of session following a meeting of the Council within a reasonable time.

Should a meeting occur without a quorum present, the minutes will be taken as a record of the discussion of Members present. As no decision can be made the minutes will be circulated to Members for noting.

## **COMMUNIQUE**

For each meeting of the WHS Council, a communique from the Chair of the WHS Council will be circulated to Members for comment before being published on the Workplace Safety and Industrial Relations Group, CMTEDD website.