

# **A Guide** *for the election of* **Employees' Safety** **Representatives**



## INTRODUCTION

A *Guide for the election of employees' safety representatives* will help employees select an *employees' safety representative* (ESR) for their workplace. This guide outlines the process required to be followed when electing an employees' safety representative under Part 5 of the *Workplace Health and Safety Act 1995* (the Act).

Part 5, section 32 of the Act provides for the election of an ESR in workplaces where there are 10 or more employees employed. So if an employee requests an ESR to be elected within their workplace, then the employer must ensure that an election is carried out according to regulation 31 of the *Workplace Health and Safety Regulations 1998* (the Regulations).

An ESR elected under part 5 of the Act and appointed under regulation 32 is granted certain powers by virtue of the Act and the Regulations. Employees who are selected or appointed to represent fellow employees either by the employer as part of their safety management system or unofficially by other employees will not have these powers.

The information in this booklet is for guidance only and is to assist in electing an ESR (as defined under the Act). It is not to be taken as an expression of the law. It should be read in conjunction with the Act and the Regulations. Copies of this legislation can be purchased from the Printing Authority of Tasmania Bookshop, 2 Salamanca Place Hobart, or call (03) 6233 3289 or freecall 1800 030 940. It is also available on the Internet at [www.thelaw.tas.gov.au](http://www.thelaw.tas.gov.au)

## WHAT IS AN ESR?

An ESR is an employee elected under section 32 of the Act to represent the health and safety interests of their co-workers within a specific workgroup in their workplace. In doing this, an ESR has certain functions and powers that they are able to use within the workplace. Such functions and powers ensure their employer involves the ESR to resolve health and safety issues. An ESR is normally appointed for a period of 3 years.

The functions of an ESR are:

- to represent the health and safety interests of employees at the workplace
- to encourage safe work practices
- to advise the employer of any safety or health hazard that comes to the notice of the ESR.

To carry out these functions, the employer must allow the ESR to:

- inspect the workplace during the ESR's normal working hours, as is reasonably necessary
- immediately inspect the whole or any part of the workplace if there is an accident or dangerous occurrence, or if there is an immediate threat of such an occurrence
- following consultation with the employer, to request an inspector to conduct an inspection at the workplace
- to accompany an inspector during an inspection of the workplace, if the inspector so requests
- if requested, be present at meetings between an employee and the employer, another employee, a case manager, a rehabilitation provider, a medical practitioner, an inspector, or any other relevant person.

For more information on the role and functions of an ESR, or to obtain a copy of GB138 *ESR Handbook: A Working Guide for Elected Employees' Safety Representatives*, call the Workplace Standards Helpline on 1300 366 322 or go to [www.workcover.tas.gov.au/esr](http://www.workcover.tas.gov.au/esr)

## THE ELECTION PROCESS

Once it has been decided to elect an ESR, the Regulations require the election to follow a specific process. This process is detailed on the following page.

## THE ELECTION FORMS

Copies of the standardised forms are included in this guide. However, these forms may be updated and you should check Workplace Standards website for currency.

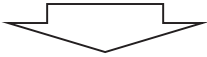
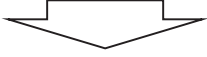
It is suggested that this guide be kept intact and that working forms be obtained by:

- photocopying the forms in this guide (check Workplace Standards website for currency)
- calling the Workplace Standards Helpline on 1300 366 322
- going to the Workplace Standards website at [www.workcover.tas.gov.au/esr](http://www.workcover.tas.gov.au/esr)

Following the election, the Returning Officer must complete and forward declaration forms (as included in this guide) to the Director of Industry Safety at Workplace Standards Tasmania for processing and issuing the ESR's Certificate of Appointment. The completed forms should be forwarded within 14 days after the date of the election. *Please do not forward this guide.*



## THE ELECTION PROCESS — IN DETAIL

THE PROCESS	FREQUENTLY ASKED QUESTIONS
<p><b>Notification of an election</b></p> <p>Once nominations have been received and the election date set, the Returning Officer is to:</p> <ul style="list-style-type: none"> <li>• advise the employer of the election date</li> <li>• display a notice in the workplace 14 days before election date, advising all employees of the nominations and the election date</li> <li>• if the election is to be held by secret ballot, the ballot papers need to be distributed to all employees 14 days before the election.</li> </ul> 	<p>How is this done? <i>By agreement between the employer or employer representative and the Returning Officer.</i></p> <p>Which notice should be displayed? <i>The Returning Officer is to complete and display within the workplace both Form ESR 2 and Form ESR 2(B).</i></p> <p>Is it necessary to hold an election if only one nomination is received? <i>Yes, an election must be held.</i></p>
<p><b>The election</b></p> <p>All employees (and only employees) are entitled to vote in the election. The Returning Officer is to:</p> <ul style="list-style-type: none"> <li>• supervise the election as agreed</li> <li>• count the votes.</li> </ul> 	<p>How many employees must vote for a valid result? <i>More than 50% of employees must cast a valid vote at the election for the election result to be valid.</i></p>
<p><b>Election result</b></p> <p>After the election, the Returning Officer is to:</p> <ul style="list-style-type: none"> <li>• declare the election results</li> <li>• send all the required documents to the Director of Industry Safety, within 14 days of the election taking place.</li> </ul>	<p>How is this done? <i>By completing and displaying in the workplace Form ESR 3.</i></p> <p>What documents must be sent to the Director?</p> <ul style="list-style-type: none"> <li>• <i>A signed declaration that the election is valid and was conducted in accordance with the Regulations (Form ESR 4)</i></li> <li>• <i>Signed declarations by any elected ESRs that they accept the position (Form ESR 5)</i></li> <li>• <i>If more than one ESR is elected, a declaration by the employer agreeing to having more than one ESR (Form ESR 6).</i></li> </ul> <p>What happens next? <i>Once the Director of Industry Safety is satisfied that the proper election procedures have been followed, the ESR will be issued with a Certificate of Appointment.</i></p>

**NOTICE OF MEETING FOR THE ELECTION OF AN  
EMPLOYEES' SAFETY REPRESENTATIVE**

1. Notice is given that in accordance with section 32 of the *Workplace Health and Safety Act 1995* and regulation 31 of the *Workplace Health and Safety Regulations 1998*.

A meeting will be held for all employees who work at

.....  
.....  
.....  
(place/location)

2. The meeting will be held

on .....  
(date/time)  
at .....  
.....  
.....  
(specific place)

3. The **purpose of the meeting** is to determine:

- The manner of the election of an employees' safety representative.
- The date of an election of an employees' safety representative.
- The appointment of an employee or union official relevant to the workplace as Returning Officer for the election.
- The number of employees' safety representatives proposed to be elected.

All employees who work at

.....  
.....  
.....  
(place/location)

should attend.

NAME..... SIGNED.....  
(employer representative)

NAME..... SIGNED.....  
(notifying employee)

DATE OF NOTICE ...../...../.....

**Note:** *In accordance with regulation 31(a) this notice is to be displayed in the workplace at least 14 days prior to the meeting being held.*

**NOTICE OF AN ELECTION FOR THE POSITION OF  
EMPLOYEES' SAFETY REPRESENTATIVE**

1. Notice is given that in accordance with Section 32 of the *Workplace Health and Safety Act 1995* and regulation 31 (d) (i) of the *Workplace Health and Safety Regulations 1998*, an election for an employees' safety representative is to be held for all employees who work at:

.....  
.....  
.....

2. The election will be held

on .....  
(date/time)  
at .....  
.....  
.....  
(specific place)

3. The manner of the election shall be by

.....  
(state the method of election)

NAME ..... SIGNED .....  
(Employer Representative)

NAME ..... SIGNED .....  
(Returning Officer)

**DATE NOTICE DISPLAYED** ...../...../.....

**Note 1:** *In accordance with regulation 31 (d) (i) this notice is to be displayed in the workplace for at least 14 days before the election.*

**Note 2:** *Each employee in the workplace is entitled to vote at the election. The election is not valid unless more than 50% of employees employed at the workplace make a valid vote.*

NOMINATIONS

The nominations received are listed below

- (a) .....  
*(name)*
- (b) .....  
*(name)*
- (c) .....  
*(name)*
- (d) .....  
*(name)*
- (e) .....  
*(name)*
- (f) .....  
*(name)*
- (g) .....  
*(name)*
- (h) .....  
*(name)*
- (i) .....  
*(name)*
- (j) .....  
*(name)*
- (k) .....  
*(name)*
- (l) .....  
*(name)*

SIGNATURE OF RETURNING OFFICER .....

DATE NOTICE DISPLAYED ...../...../.....

**ELECTION RESULTS FOR THE POSITION OF  
EMPLOYEES' SAFETY REPRESENTATIVE**

**Elected under section 32 of the *Workplace Health and Safety Act 1995***

1. Notice is given of the results of the election of an employees' safety representative which was conducted on

DATE ...../...../.....

2. The successful candidate was

.....  
(name)

3. I declare .....  
(name)

duly *elected/elected unopposed\** employees' safety representative for the workplace

.....  
.....  
.....  
(workplace name and address)

SIGNATURE OF RETURNING OFFICER .....

DATE ...../...../.....

\* *Strike out that which is not applicable.*

DECLARATION BY THE RETURNING OFFICER
FOR THE ELECTION OF AN EMPLOYEES' SAFETY REPRESENTATIVE

Regulation 31 (g) of the Workplace Health & Safety Regulations 1998

To:

Director of Industry Safety
Workplace Standards Tasmania
PO Box 56
ROSNY PARK TAS 7018

[Please Print in BLOCK letters]

1. I, ..... having been duly
(full name)
appointed Returning Officer by employees at:

.....
.....
.....
(please provide business name and full street address)

do hereby state that an election for the position of employees' safety representative was conducted on
...../...../.....and that the following named person was elected/elected unopposed.\*

(\* Strike out that which is not applicable)

.....
(state full name of the elected employees' safety representative)

for

.....
.....
.....
(clearly state the 'workplace area' for which the ESR has been elected to represent - e.g. warehouse 1,
workshop area or floors 1 and 2 etc).

2. I declare the election for the above position is valid and was conducted in accordance with
regulation 31 of the Workplace Health and Safety Regulations 1998.

SIGNATURE OF
RETURNING OFFICER:..... DATE ...../...../.....

Note 1: A separate 'ESR Form 4' is to be completed for each elected employee's safety representative.
Note 2: Please attach the completed and signed 'ESR declaration' (i.e. ESR Form 5) to this form prior to forwarding it on
to the Director of Industry Safety:
Note 3: If more than one ESR has been elected, please also forward the completed and signed 'Employer declaration'
(i.e. ESR Form 6) along with this documentation.

3. Please complete the following contact details.

**[A] RETURNING OFFICER'S DETAILS:**

NAME:.....
POSITION/TITLE:.....
ORGANISATION NAME:.....
POSTAL ADDRESS:.....
PHONE:..... MOBILE:.....
EMAIL:.....

**[B] ALTERNATIVE CONTACT DETAILS:**

<b>As the Returning Officer, if you do not wish to have the 'Certificate of Appointment/s' returned to you, please provide the name and contact details of another individual within the company (i.e. HR Manager or OHS Co-ordinator) to whom the certificates can be forwarded.</b>
NAME:.....
POSITION/TITLE:.....
POSTAL ADDRESS:.....
PHONE:..... MOBILE:.....
EMAIL: .....

**IMPORTANT: The Returning Officer is to ensure that this declaration and other relevant forms (refer Notes 2 and 3 above) are completed and forwarded onto the Director of Industry Safety no later than 14 days after the date of the election.**

***PERSONAL INFORMATION PROTECTION ACT 2004***

Personal information we collect from you will be used by the Director of Industry Safety for the purpose of issuing ESR Certificate/s of Appointment/s and may be used for other purposes permitted by the *Workplace Health and Safety Act 1995* and associated laws. Failure to provide this information may result in your application being denied or records not being properly maintained. Your personal information may be disclosed to contractors and agents of Workplace Standards, law enforcement agencies, courts and other public sector bodies or organisations authorised to collect it. This information will be managed in accordance with the *Personal Information Protection Act 2004* and may be accessed by you on request to this Department. You may be charged a fee for this service.

**DECLARATION BY A PERSON ELECTED AS AN  
EMPLOYEES' SAFETY REPRESENTATIVE**

**Regulation 31(g)(ii) – Workplace Health and Safety Regulations 1998**

To:

Director of Industry Safety  
Workplace Standards Tasmania  
PO Box 56  
ROSNY PARK TAS 7018

I, .....  
(full name)

having been duly elected as an employees' safety representative by employees at:

.....  
.....  
.....  
(state the workplace for which the elected representative is responsible)

do hereby declare that I accept the position as employees' safety representative at the above workplace.

SIGNATURE.....

DATE ...../...../.....

<p><i>To assist WST in keeping you informed of any issues relating to your role as an employees' safety representative could you please provide us with your contact details below:</i></p> <p>Postal Address: .....</p> <p>Email: .....</p>
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**PERSONAL INFORMATION PROTECTION ACT 2004**  
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**DECLARATION BY THE EMPLOYER:  
AGREEMENT TO THE ELECTION OF MORE THAN ONE  
EMPLOYEES' SAFETY REPRESENTATIVE**

**Regulation 31(g)(iv) – Workplace Health and Safety Regulations 1998**

To:

Director of Industry Safety  
Workplace Standards Tasmania  
PO Box 56  
ROSNY PARK TAS 7018

I, .....  
(full name)

being the employer responsible for the workplace located at:

.....  
.....  
.....  
(state the workplace for which the elected representative is responsible)

do hereby declare my agreement to the election of [ \_ \_ \_ \_ ] employees' safety  
(state number)  
representatives at the above workplace.

SIGNATURE .....

DATE ...../...../.....

**PERSONAL INFORMATION PROTECTION ACT 2004**

Personal information we collect from you will be used by the Director of Industry Safety for the purpose of issuing ESR Certificate/s of Appointment and may be used for other purposes permitted by the *Workplace Health and Safety Act 1995* and associated laws. Failure to provide this information may result in this application being denied or records not being properly maintained. Your personal information may be disclosed to contractors and agents of Workplace Standards, law enforcement agencies, courts and other public sector bodies or organisations authorised to collect it. This information will be managed in accordance with the *Personal Information Protection Act 2004* and may be accessed by you on request to this Department. You may be charged a fee for this service.

**1300 366 322** [www.workcover.tas.gov.au](http://www.workcover.tas.gov.au)

**HOBART** 30 Gordons Hill Road, PO Box 56, Rosny Park 7018  
**LAUNCESTON** Henty House, 1 Civic Square, Launceston 7250  
**BURNIE** Reece House, 46 Mount Street, PO Box 287, Burnie 7320

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Email: [wstinfo@justice.tas.gov.au](mailto:wstinfo@justice.tas.gov.au)