

ETU OHS REPS NEWSLETTER



NEW WORKSAFE POSITIONS

WorkSafe have published two new WorkSafe Positions under Section 12 of the OHS Act 2004. The full documents can be downloaded from their web site.

One relates to “discrimination on health and safety grounds” and the other relates to “the requirement to answer questions”.

The first document sets out WorkSafe’s position on the meaning of the terms ‘injures an employee in the employment of the employer’; ‘alters the position of an employee to the employee’s detriment’; and ‘dominant reason’ in the context of duty holders meeting their obligations under Part 7 (sections 76 to 78) of the OHS Act 2004.

Section 76 of the OHS Act prohibits discrimination by an employer against an employee or prospective employee on grounds that relate to health and safety. Section 76(1) applies to:

- an employer who dismisses, injures in employment or alters the position of an employee to the employee’s detriment or who threatens to do such things, and
- an employer who refuses or fails to offer employment to a prospective employee or treats a prospective employee less favourably than another prospective employee would be treated in an offer of employment, on the basis that under s76(2) the person:
 - a) is or has been a health and safety representative (HSR) or a member of a health and safety committee (HSC),
 - b) exercises or has exercised a power as an HSR or as a member of an HSC,
 - c) assists or has assisted, or gives or has given any information to, an inspector, an HSR or a member of an HSC, or
 - d) raises or has raised an issue or concern about health or safety to the employer, an inspector, an HSR, a member of an HSC or an employee of the employer.

The *Occupational Health and Safety Amendment (Employee Protection) Act 2009* which took effect on July 1 2009 also prohibits discrimination by an employer against an employee, or prospective

employee, on the basis that the person has assisted, given information to or raised safety issues or concerns with authorised representatives of registered employee organisations (ARREOs). Under s77 an employer bears the onus of proving that the reason for the alleged discriminatory act(s) was not the dominant reason for the employer’s conduct.

The second document sets out WorkSafe Victoria’s position on how it will administer the *OHS Act 2004* in relation to the operation of section 100(1)(c).

The OHS Act gives inspectors extensive powers of entry, enquiry and investigation. These include powers to require production of documents and powers to require answering of questions as set out in Section 100, see extract below:

100. Power to require production of documents etc.

(1) An inspector who enters a place under this Division may-

(a) require a person to produce a document or part of a document located at the place that is in the person’s possession or control; and

(b) examine that document or part; and

(c) require a person at the place to answer any questions put by the inspector.

(2) A person must not, without reasonable excuse, refuse or fail to comply with a requirement under subsection (1).

(3) Before requiring a person to produce a document or part of a document or to answer questions under subsection (1), an inspector-

(a) must produce his or her identity card for inspection by the person and warn the person that a refusal or failure to comply with the requirement, without reasonable excuse, is an offence; and

(b) must inform the person that he or she may refuse or fail to answer any question if answering the question would tend to incriminate him or her.

4) A person is not liable to be prosecuted for an offence against subsection (2) if the inspector concerned failed to comply with subsection (3).

NEWS

The following is an excerpt from a publication from ESV in "What's New" titled "GUIDANCE NOTES FOR ELECTRICAL INSPECTORS"

REPLACEMENT OF EXISTING SWITCHBOARDS

A switchboard containing semi enclosed rewirable fuses may be replaced with a new circuit breaker switchboard in the existing position under the following conditions;

1. the switchboard location complies with the regulations that were in force when the switchboard was first installed ; and
2. no other electrical work is being carried out e.g. installation /rewiring of final sub-circuits or replacement of the consumers mains ; and
3. the new switchboard complies with the RCDs requirements stated in Clause of 2.6 and Amendment 1 of AS/NZS 3000:2007.

Note - switchboards installed in cupboards shall comply Clause 2.9.2.5 of AS/NZS 3000:2007.

SOLAR INSTALLATIONS MAIN SWITCH

An additional main switch for a solar installation can be installed on an existing switchboard if that switchboard complied with the regulations that were in force when the switchboard was first installed.

The locking facilities requirements for main switches now only applies to the solar main switch (subject to further clarification by Standards Australia)

STANDBY GENERATION – SWITCHING THE NEUTRAL

If electing to switch a neutral conductor with associated active conductor, close attention is required to ensure compliance with the following;

1. The incoming neutral conductor before the MEN connection shall not be switched.
2. Neutral and Earth conductors shall not be connected in parallel.
3. The change-over device shall maintain the continuity of the neutral conductor (this means the neutral contacts make before the active contact when closing and open after the active contacts when opening) check manufactures certification.

*Note: **Caution** some change over units are designed with the neutral contacts having only half or one third of the current carrying capacity of the active contacts.*

2010 Calendar

EEIT OHS MEETING DATES

10AM –12PM

Melbourne –

24th February

21st April

23rd June

25th August

20th October

Held at:

ETU Office

200 Arden Street
North Melbourne

OHS REP TRAINING

Contact Tanya—0393269377 to book into the courses below.

Initial 5 Day OHS REPS Course

March 10, 11, 16, 17, 18

July 7, 8, 13, 14, 15

October 6, 7, 12, 13, 14

1 Day Refresher OHS Rep Course

Melbourne

April 14

July 21

October 27

Country

March 24 Geelong

May 26 Morwell

July 28 Portland

September 22 Shepparton

November 24 Mildura