

ESR Handbook:

A working guide for
**Elected Employees'
Safety Representatives**



**WORKPLACE
SAFE**

It's working



IMPORTANT NOTE

The information in this booklet is for guidance only and is not to be taken as an expression of the law. It should be read in conjunction with the *Workplace Health and Safety Act 1995*, the *Workplace Health and Safety Regulations 1998* and any other relevant legislation. Copies of the legislation can be purchased from the Printing Authority of Tasmania Bookshop: call (03) 6233 3289 or freecall 1800 030 940. It is also available on the Internet at www.thelaw.tas.gov.au

TO THE ESR:

It is not acceptable for workers to be injured or made ill at work.

This is a fundamental belief of the Tasmanian Government and the WorkCover Tasmania Board. It is on this belief that we base the development of laws governing health and safety in workplaces, and which has motivated our education and media campaigns.

Every Tasmanian worker contributes to the health and safety of their workplace. However, the role of an Employee Safety Representative (ESR) is unique and significant because ESRs are elected by the workers of a workplace to represent their health and safety concerns to management.

As an ESR, you will be expected to consult with your co-workers, raise and discuss any health and safety issues with your employer, and encourage and promote safe work practices. Your day-to-day role may vary depending on the size of your workplace and the type of work being undertaken, but a common feature of all ESRs is that they make a real and positive difference to the safety of their fellow employees and workplaces.

This ESR Handbook aims to assist you in understanding the role of an ESR. It is one of several resources available to you: your employer is required under legislation to provide you with ESR training; Workplace Standards Tasmania provides information through its 1300 366 322 Helpline service and its website, which has an area dedicated to ESRs; and Workplace Issues, the quarterly magazine produced by Workplace Standards Tasmania, has a section relating specifically to ESRs.

On behalf of the WorkCover Tasmania Board and everyone who has an interest in keeping Tasmanian workers safe from injury and illness in the workplace, I congratulate and thank you for accepting the role of ESR and making a difference in your workplace.



Mark Addis

Chair

WorkCover Tasmania Board

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INTRODUCTION

This *ESR Handbook: A Working Guide For Elected Employees' Safety Representatives* is aimed at employees' safety representatives (ESRs) and outlines their roles and functions as set out in the *Workplace Health and Safety Regulations 1998* (the Regulations).

It provides practical guidance and support beyond that provided by mandatory ESR training, and will be a useful reference for ESRs as they determine their role and functions within the workplace.

It is important to note that this ESR Handbook is not intended as a training guide, nor is it a substitute for the mandatory ESR training that all ESRs must undertake in accordance with the Regulations.

We strongly recommend ESRs obtain and read copies of the Regulations and *The Workplace Health and Safety Act 1995* (the Act), as having a working knowledge of health and safety legislation is necessary in order to effectively carry out their duties.

Acknowledgments

Workplace Standards Tasmania has developed this *ESR Handbook* in consultation with a number of ESRs from the public and private sectors. We wish to thank those individuals who gave their time and commitment.

WHAT IS AN ESR?

YOU HAVE BEEN ELECTED AN ESR — WHAT DOES THIS MEAN?

Under the Act, employers are required to consult with their workers on decisions that affect workplace health and safety. Electing an ESR is one way to do this.

During your three-year term as an ESR, you will play a significant role in helping your co-workers and employer to spot, assess and fix workplace health and safety problems. To help you do this, you have a number of functions and powers given to you under the Regulations. These are explained in detail in *Functions of an ESR* on page 6.

It is important to note that you are not responsible for managing workplace health and safety — this duty of care remains with your employer and cannot be handed over to you. And while you need to have an understanding of the legislation, you are not expected to be an expert on all health and safety issues in your workplace. Instead, your role is to represent your co-workers, by raising and discussing their health and safety concerns with your employer. Your employer is then required to consult with you in fixing them.

To assist you in your role, your employer must provide you with information, support and training. These are explained further in *What your employer must provide you* on page 9 and *Mandatory ESR training* on page 10.

Your area of focus

You have been elected to represent the health and safety interests of your co-workers within a specific workgroup of your workplace. For example, in a retail business you may be the ESR for the warehouse workers, while another ESR has been elected to represent the sales staff. This means you are limited to dealing with the health and safety issues specific to your workgroup only.

The issues you may find yourself involved in include:

- any specific health and safety problems affecting your workgroup
- the investigation into an accident or incident occurring in your workgroup
- the return-to-work program of an injured worker in your workgroup (in consultation with the rehabilitation co-ordinator).

You must not disclose sensitive information relating to:

- commercial or trading operations
- personal details (such as someone's circumstances, financial or personal affairs, or physical or mental state).

You are only permitted to disclose this information if:

- you are required to by law
- you are authorised by the Regulations
- you have the written consent of the person the information relates to
- it is for the purpose of statistical information.

OTHERS IN THE WORKPLACE

You will need to work with a number of people in your workplace when fixing a health and safety problem. These include the occupational health and safety (OHS) committee and the accountable person.

This *ESR Handbook* outlines how you should work with these parties; here is a summary of their roles and responsibilities.

The OHS committee

The OHS committee consists of employer and worker representatives who come together to make recommendations about workplace health and safety. By including both employer and worker representatives on the committee, it ensures that all workplace parties are given the opportunity to contribute their experience and knowledge.

While you deal with everyday health and safety problems for your specific workgroup, the OHS committee deals with the broader organisational issues that impact on the health and safety of the entire workplace. For example,

- dealing with specific health and safety problems that have been referred to the committee by you
- developing and monitoring health and safety management systems
- developing organisational policies and procedures.

Does an ESR automatically become a member of the OHS committee?

No. The workplace parties must discuss what best suits the needs of their workplace and agree on how you and the OHS committee will be linked. For example, you may agree that you will be automatically appointed as a member to the OHS committee. Or you may agree that OHS committee members will be elected/selected in a separate process to ESRs.

If you are not a member of the OHS committee, there should be communication to make sure everyone is informed of any problems being addressed.

The accountable person

The term 'accountable person' is used extensively throughout the Regulations and refers to people who have obligations under the Act.

Where a regulation requires an accountable person to do something, reference must be made to the Act to determine if an obligation that is relevant to the regulation is imposed and if so, who is responsible for meeting that obligation.

The obligation bearer is the accountable person for the specific regulation.

There can be multiple obligation bearers (accountable persons) for any one regulation

An accountable person for one regulation may not necessarily be so for others. Each regulation needs to be checked against obligations contained in the Act.

How the ESR works with the accountable person

You should consult with the accountable person to fix health and safety problems within your specific workgroup. This is detailed in the different issue resolution procedures outlined on pages 13, 16 and 17.

How the ESR works with the OHS committee

If you and the accountable person cannot agree on the action needed to fix a health and safety problem, you should take the matter to the OHS committee to be discussed.

You should also tell the OHS committee if (as you do your ESR work) you discover a weakness in your workplace's safety management systems. For example, if your experience of the agreed issue resolution procedure reveals any shortcomings, you should take this to the OHS committee.

It is not compulsory for you to take problems to the OHS committee. There may be times when it is not practicable; for example, when the problem involves an immediate threat to health and safety and it isn't possible for the committee to meet within a reasonable period of time to deal with it.

FUNCTIONS OF AN ESR

The Regulations outline what you can do to promote and encourage a healthy and safe workplace. Those functions you can carry out within the specific workgroup you have been elected to represent include:

Representing the health and safety interests of workers to the employer

Regulation 34(1)(a)

You need to raise and discuss with your employer any health and safety problems and concerns that face your co-workers. This involves continually seeking your co-workers' views and opinions. Make sure they can contact you if they need to. If they work on different shifts or at a separate worksite, you may need to consider methods other than face-to-face meetings, such as email, telephone or written memos.

You also need to provide your co-workers with regular updates on any health and safety problems you are discussing with your employer.

Discussing your ESR activities will help your co-workers understand the reasoning behind your workplace's policies and procedures.

Encouraging and promoting safe work practices

Regulation 34(1)(b)

Encourage safe work practices by telling your employer about the health and safety problems that exist within your specific workgroup. For example, tell your employer if you know some of your co-workers find it hard to understand and follow a new standard operating procedure. By doing this, you are encouraging safer work practices by making sure:

- your employer knows the new procedure isn't working
- your employer either changes the procedure and/or provides further instruction and training to ensure that workers can understand and therefore follow it.

Informing your employer of any hazards you become aware of

Regulation 34(1)(c)

You may become aware of hazards within your workplace through:

- your own experiences on the job
- discussions with your co-workers about their problems and experiences
- workplace inspections you carry out
- any accidents, incidents or near misses.

Once you identify a hazard (or a potential hazard), you must report it to your employer according to your workplace's agreed procedures. See *What to do when you identify a health and safety problem* on page 10.

Inspecting your workplace

Regulation 34(2)(a)

You are permitted to inspect any part of your workplace:

- as long as it is safe to do so
- during your normal working hours
- whenever it is reasonably necessary.

These may be regular and routine inspections, or they may be the result of:

- a problem or issue raised by a co-worker
- an accident, incident or near miss
- a change to work practices.

One of your first tasks when elected as an ESR should be to discuss these inspections with your employer, and agree on their type and frequency. This will help reduce the likelihood of any disputes or disruptions that could happen as a result of unscheduled inspections.

You should also plan how you will inspect your workplace: how will you record and report your findings to management, and what existing reporting procedures do you need to work within.

If you identify any problems in your inspection, you should raise these with the accountable person according to your workplace's agreed procedure (see *What is an agreed issue resolution procedure?* on page 10).

Inspecting your workplace following an accident or dangerous occurrence

Regulation 34(2)(c)

You can inspect all or part of the workplace immediately after an accident or incident *if it is safe to do so*.

You may do this on your own or with your employer. You and your employer should establish procedures to follow for any future inspections following an accident or dangerous occurrence.

Examples of accidents or dangerous occurrences you may investigate include:

- a hazardous substances spill or leak
- the failure of plant or equipment
- a falling object landing close enough to someone to potentially cause serious injury
- the failure of a sling or lifting device.

Asking an inspector to inspect your workplace

Regulation 34(3)

After consulting with the accountable person, you may ask an authorised inspector from Workplace Standards Tasmania to inspect your workplace.

Before they do so, the inspector will ask:

- has the problem been considered by the accountable person and/or the OHS committee (if one exists) in your workplace?
- what action, if any, has been taken as a result of this consultation?

Accompanying an inspector during their inspection

Regulation 34(2)(b)

You can accompany an authorised inspector from Workplace Standards Tasmania on an inspection of your workplace *if the inspector requests your involvement*.

Being present at any meeting concerning a worker's health and safety

Regulation 34(4)

If the worker concerned requests it, you may be present at any meeting that discusses their workplace health and safety and that involves the employer, a worker, a case manager, a rehabilitation provider, a medical practitioner, an inspector and/or any other relevant person.

You must treat personal information that you hear or gather through your ESR work as confidential. For more guidance, see *Your area of focus* on page 4.

LEGAL IMPLICATIONS

In your role as an ESR, you are not liable for doing or failing to do any of these functions. However, like all workers, you have a legal duty of care to:

- take reasonable care for the health and safety of yourself and others (including anyone working under your direction or supervision) who may be affected by any acts, omissions, failures, errors or oversights made by you.
- follow any reasonable direction given by your employer or accountable person about health and safety.

This is from section 16 of the Act.

The accountable person at your workplace must not dismiss you from employment, threaten you with dismissal, or prejudice your ability to perform your role, simply or solely because you are fulfilling your functions as an ESR.

CONDUCT OF AN ESR

When can an ESR's appointment be cancelled?

An employer or an authorised inspector from Workplace Standards Tasmania can request your appointment be cancelled if you:

- place impractical or unreasonable demands on your employer
- do not have the support of a majority of the workers you were elected to represent
- try to cause harm to either your employer or their business or work activities
- act unreasonably, on a whim or not for the purpose you were appointed for
- disclose information you obtained doing your ESR job that relates to commercial or trading operations or the physical condition, mental condition or personal circumstances or affairs of a worker or other person at the workplace.

Who can request an ESR's appointment be cancelled?

Only an employer or an authorised inspector from Workplace Standards Tasmania can request (in writing) to the Director of Industry Safety to have an ESR's appointment cancelled.

The Director has 14 days to investigate the allegations in this request:

- if the Director agrees with the request, your appointment can be cancelled and you can be prohibited from being appointed as an ESR again for up to five years. The Director will provide written advice of their findings to you and either your employer or the inspector (whoever requested the cancellation)
- if the Director disagrees with the request and finds you can retain your appointment, the employer (if they requested the cancellation) must pay any costs involved in the request; for example, any costs incurred by the Department of Infrastructure, Energy and Resources as a result of investigating your employer's complaint.

WHAT YOUR EMPLOYER MUST PROVIDE YOU

Under the Regulations, your employer is to provide you with the following information and support.

Information

Regulation 35(1), (2), (3)

Your employer must provide reasonable access to certain health and safety information that is relevant to the specific workgroup you represent. For example:

- information on actual or potential hazards within the workplace
- accident and incident reports and lost time statistics
- details of notices issued by inspectors
- safety and health information provided by manufacturers and suppliers
- results of any tests or monitoring carried out such as noise monitoring or asbestos air monitoring
- workplace audit results
- minutes of safety meetings.

Your employer is *not* required to provide any information that may incriminate someone, or a worker's personal medical information without that worker's consent.

Resources

From time to time, you may need access to the following resources:

- a telephone, photocopier, word processor, email and internet facilities
- storage and filing space
- access to meeting rooms
- notice boards.

The legislation does not state the exact resources you need to do your duties. Therefore, you and your employer should jointly determine the most suitable and available resources.

Time

It is understood that you will need time within your normal working hours to carry out your ESR functions.

The amount of work time you need will vary according to the circumstances of your workplace. For example:

- the size and complexity of the workgroup you represent
- the type of work carried out at the workplace and the degree of risk involved
- the nature and culture of the workforce
- the total number of ESRs at the workplace
- any special needs of the workforce, such as workers who speak a language other than English or workers with a disability
- any expansions or upgrades occurring in the workplace.

You and your employer need to consider these issues and agree on how much time you should dedicate to your ESR duties. These arrangements need to be flexible, as the workload will vary from time to time.

MANDATORY ESR TRAINING

Under the Regulations, you are required to do mandatory ESR training to gain the appropriate and necessary skills and knowledge to be an ESR.

When training should take place

Regulation 33

Your employer is responsible for making sure you attend mandatory ESR training as soon as reasonably practicable, and no later than six months after your appointment.

You should agree on the timing of the training. You may need to consider business demands and staffing level requirements to do this.

ESR training is to take place during your normal working hours.

If you are elected to a second three-year term, it is a requirement that you undertake mandatory ESR training again.

Training providers

Regulations 33 and 9

Training is to be provided by an accredited ESR training provider; that is, one approved by the Director of Industry Safety. For information on accredited ESR training providers, call the Workplace Standards Helpline on 1300 366 322 or go to www.workcover.tas.gov.au/esr

WHAT TO DO WHEN YOU IDENTIFY A HEALTH AND SAFETY PROBLEM

Consultation: the first step

Your first step to fix the problem is to consult with the accountable person. Tell them about your concerns and listen to theirs; try to work together to find solutions to the problem.

You should also draw on the knowledge, experience and ideas of your co-workers.

The exact procedure to follow depends on your workplace's agreed issue resolution procedure.

What is an agreed issue resolution procedure?

An agreed issue resolution procedure should:

- provide a step-by-step approach to fixing health and safety problems
- outline a 'chain of command' identifying the people who need to be involved in fixing health and safety problems
- be documented in writing
- be explained to all workers through posters, memos, newsletters and staff meetings.

Wherever possible, you should first try to fix any problems within your specific workgroup directly with the accountable person.

If the problem cannot be fixed by the accountable person (for example, if it is beyond their authority to fix the problem), then they may need to refer it to a more senior manager for action. In this situation, the accountable person should ensure that you are better informed as to which manager the problem has referred.

What if your workplace does not have an agreed issue resolution procedure?

You should work with your employer to agree on an appropriate procedure for everyone to follow when fixing health and safety problems. This procedure should follow these steps:

Step 1

Discuss the problem with the accountable person either verbally or in writing.

Step 2

If you and the accountable person can't fix the problem, you should either:

- raise the problem with a more senior manager who has the authority to fix the problem
- or
- take the problem to your OHS committee, if you have one.

Step 3

If, after following steps 1 and 2, you are still concerned for the health and safety of anybody in your workplace, you can either:

- seek the help and advice of an authorised inspector from Workplace Standards Tasmania (see *When to seek the help of an inspector* below)
- or
- issue a direction to the accountable person (see *Issuing directions* on page 11).

Throughout this process, you should provide regular feedback to your co-workers.

When to seek the help of an inspector

You can seek the help and advice of an authorised inspector from Workplace Standards Tasmania at any stage in the resolution process. However, before involving an inspector, you should first try to fix the problem by consulting with the accountable person and (if one exists) the OHS committee (as outlined in steps 1 and 2 of the above procedure).

If, after following steps 1 and 2, you are still concerned for the safety and health of anybody in your workplace, you can then consider asking an inspector for their involvement and advice. Call the Workplace Standards Helpline on 1300 366 322.

ISSUING DIRECTIONS

The Regulations give you the power to issue a direction to the accountable person to fix a health and safety problem.

However, you should only do this as a final option, once you:

- have been through the agreed issue resolution procedures (outlined on the opposite page)
- have considered all the relevant health and safety issues
- are fully satisfied that the problem poses a real threat to workers' health and safety
- are fully satisfied that the action you direct the accountable person to take to fix the problem is practicable.

You can also only issue a direction once you have been an ESR for 30 days or once you have completed approved ESR training, whichever comes first.

Research

Before issuing a direction to the accountable person, you need to have a good understanding of the problem. This does not mean you have to be an expert on the problem. It *does*, however, require you to make some sound research into the matter and have a good understanding of the issues involved before you issue the direction. The type of research you should do includes:

- consulting with the accountable person and understanding their position on the problem
- gathering information on industry practices
- researching any relevant standards such as Australian Standards and codes of practice
- getting help and advice from Workplace Standards Tasmania.

Types of directions

You can issue two directions:

- a written direction for contravention of Act or Regulations (Regulation 36)
- a verbal direction to cease work (Regulation 37).

DIRECTION FOR CONTRAVENTION OF ACT OR REGULATIONS

Regulation 36

See *Issue Resolution Procedure – Direction for contravention of Act or Regulations* on page 13 for a summary of this procedure.

See page 14 for a completed written direction. Templates can be obtained by calling the Workplace Standards Helpline on 1300 366 322 or going to www.workcover.tas.gov.au/esr

What is this direction for?

This direction is issued to the accountable person when you believe someone may be contravening the Act or the Regulations. It must specify:

- which part of the legislation is being contravened
- what action the accountable person must take to fix the contravention
- the date this action must be taken by (at least seven days is to be given for the remedial action to be completed).

How do you issue this direction?

Before issuing this direction, you must first consult with the person in question and the employer to try and fix this problem.

You should then work through your workplace's agreed issue resolution procedure with the accountable person.

If, after consulting with the accountable person you believe the problem still poses a risk to anyone's health and safety, you may then issue this direction to the accountable person to fix the contravention.

Who receives a copy of this direction?

You must give:

- the original to the accountable person
- a copy to the Director of Industry Safety

Send a copy of your direction to the Director.

by fax to: 6233 8338

in person or by post to:

Workplace Standards Tasmania Rosny Office
30 Gordons Hill Road
PO Box 56, Rosny Park 7018

Workplace Standards Tasmania Launceston Office
Henty House, 1 Civic Square
Launceston 7250

Workplace Standards Tasmania Burnie Office
Reece House, 46 Mount Street
PO Box 287, Burnie 7320

by email to: wstinfo@dier.tas.gov.au

You also need to keep a copy for your records.

What the accountable person must do

Once they receive the direction, the accountable person must not ignore it but must either:

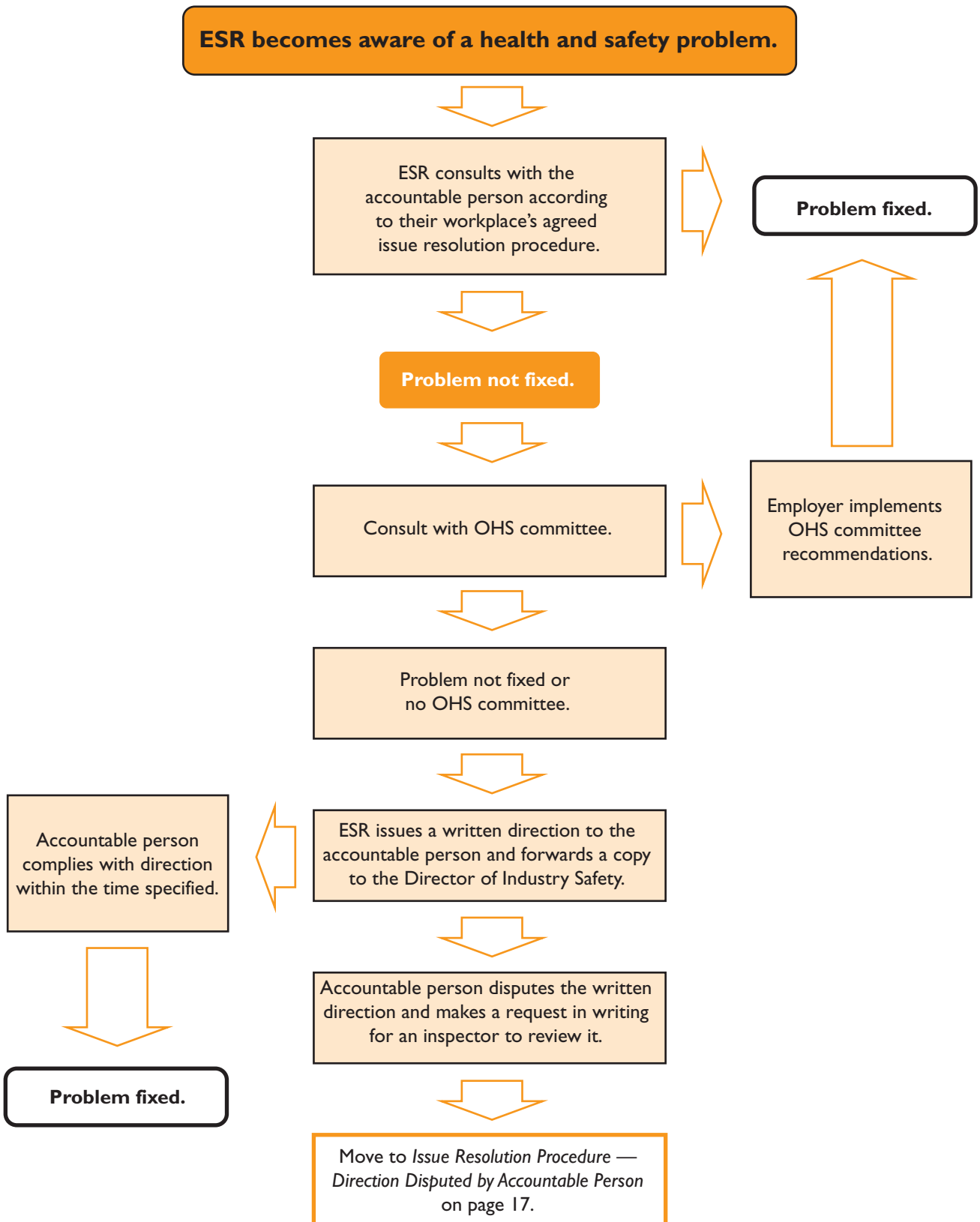
- comply within the timeframe the direction specifies
- or
- dispute it by requesting an authorised inspector from Workplace Standards Tasmania to review the direction. This request must be made in writing and within the timeframe the written direction specifies.

What the inspector must do

The inspector must confirm, vary or cancel the direction as soon as is reasonably practicable. The direction is suspended pending the outcome of the inspector's investigation.

ISSUE RESOLUTION PROCEDURE — DIRECTION FOR CONTRAVENTION OF ACT OR REGULATIONS (REGULATION 36)

This is a summary only of the process. Please refer to pages 11–12 for full details of what is required in this procedure.



See *What if your workplace does not have an agreed issue resolution procedure* on page 10 if your workplace does not have an agreed issue resolution procedure.

Employees' Safety Representative Direction to the Accountable Person
Workplace Health and Safety Regulations 1998,
Regulation 36(2)

To John Smith
(the accountable person within the meaning of regulation 5)

I, Jane Jones
(name of the employees' safety representative issuing the direction)

appointed as an employees' safety representative under regulation 32(1) of the Workplace Health and Safety Regulations 1998 for: Warehouse 1

[description or name of workplace for which employees' safety representative certificate of appointment applies in accordance with regulation 32(1)]

after consultation, in accordance with regulation 36(1), consider that the health or safety of all warehouse employees to be at risk.

(specify the person, class or group of persons whose health or safety is considered to be at risk)

The contravention is all reasonably practicable steps have not been taken to ensure that all operators of the newly purchased forklifts are fully trained and competent in their safe operation, as per Section 9 (1) (c) of the *Workplace Health and Safety Act 1995*.

(a description of the hazard and an assessment of the risk, and specify the provision of the Act or regulations which is, or are being contravened or is, or are likely to continue to be contravened.)

The contravention is occurring at: 100 Mount Pleasant Road, Launceston, Tasmania.

(give accurate description of the location and/or address of place at which risk is occurring)

The action required to be taken in accordance with regulation 36(2)(b):

To provide any information, instruction, training and assessment to all forklift operators on the safe operation of the plant in accordance with the manufacturer's instructions to meet the requirements of the "National Guidelines for Occupational Health and Safety Competency Standards for the Operation of Loadshifting Equipment and Other Types of Specified Equipment [NOHSC: 7019(1992)]"

This action is to be undertaken prior to 27 November 2003.

(specify a period of not less than 7 days within which the action must be taken.)


(Signature of Employees' Safety Representative)

Date: 15/ 11/ 03

NOTE: a copy of this direction is required by regulation 36(4) to be provided to the Director of Industry Safety.

Send a copy of your directions to the Director:

by fax to: 6233 8338

in person or by post to:

Workplace Standards Tasmania Rosny Office
30 Gordons Hill Road
PO Box 56, Rosny Park 7018

Workplace Standards Tasmania Burnie Office
Reece House, 46 Mount Street
PO Box 287, Burnie 7320

Workplace Standards Tasmania Launceston Office
Henty House, 1 Civic Square
Launceston 7250

by email to: wstinfo@dier.tas.gov.au

DIRECTION TO CEASE WORK

Regulation 37

See *Issue Resolution Procedure – Direction to cease work* on page 16 for a summary of this procedure.

What is this direction for?

This verbal direction is issued to the accountable person when you believe there is a risk of serious injury or serious harm to the health and safety of anyone in your workplace.

How do you issue this direction?

If the accountable person is *not* available, you:

- may immediately advise the worker of their right to cease work under section 17 of the Act. You do not have any authority to direct or force a worker to cease work, only to advise them of their right to do this. The decision to cease work must be entirely up to the worker
- should then discuss the problem and possible solutions with the accountable person as soon as they become available.

If the accountable person is available, you must immediately speak with them to find a way to fix the problem.

If, after consulting with the accountable person, you believe there is still a risk of serious injury or harm to the health of anybody in your workplace, then you can require the accountable person to direct any worker to cease work. This direction to cease work would be given verbally, and would then be followed up in writing.

Providing reasons

After giving a verbal direction to cease work, you must follow it up in writing to:

- the accountable person
- the Director of Industry Safety

This information is to be forwarded to the Director:

by fax to: 6233 8338

in person or by post to:

Workplace Standards Tasmania Rosny Office
30 Gordons Hill Road
PO Box 56, Rosny Park 7018

Workplace Standards Tasmania Launceston Office
Henty House, 1 Civic Square
Launceston 7250

Workplace Standards Tasmania Burnie Office
Reece House, 46 Mount Street
PO Box 287, Burnie 7320

by email to: wstinfo@dier.tas.gov.au

You need to provide written reasons for issuing a verbal direction as soon as reasonably practicable, and no later than 24 hours after first issuing the direction.

You also need to keep a copy for your own records.

What the accountable person must do

Once they receive your direction, the accountable person cannot ignore it. They must either:

- make sure the worker complies with the direction to cease work

or

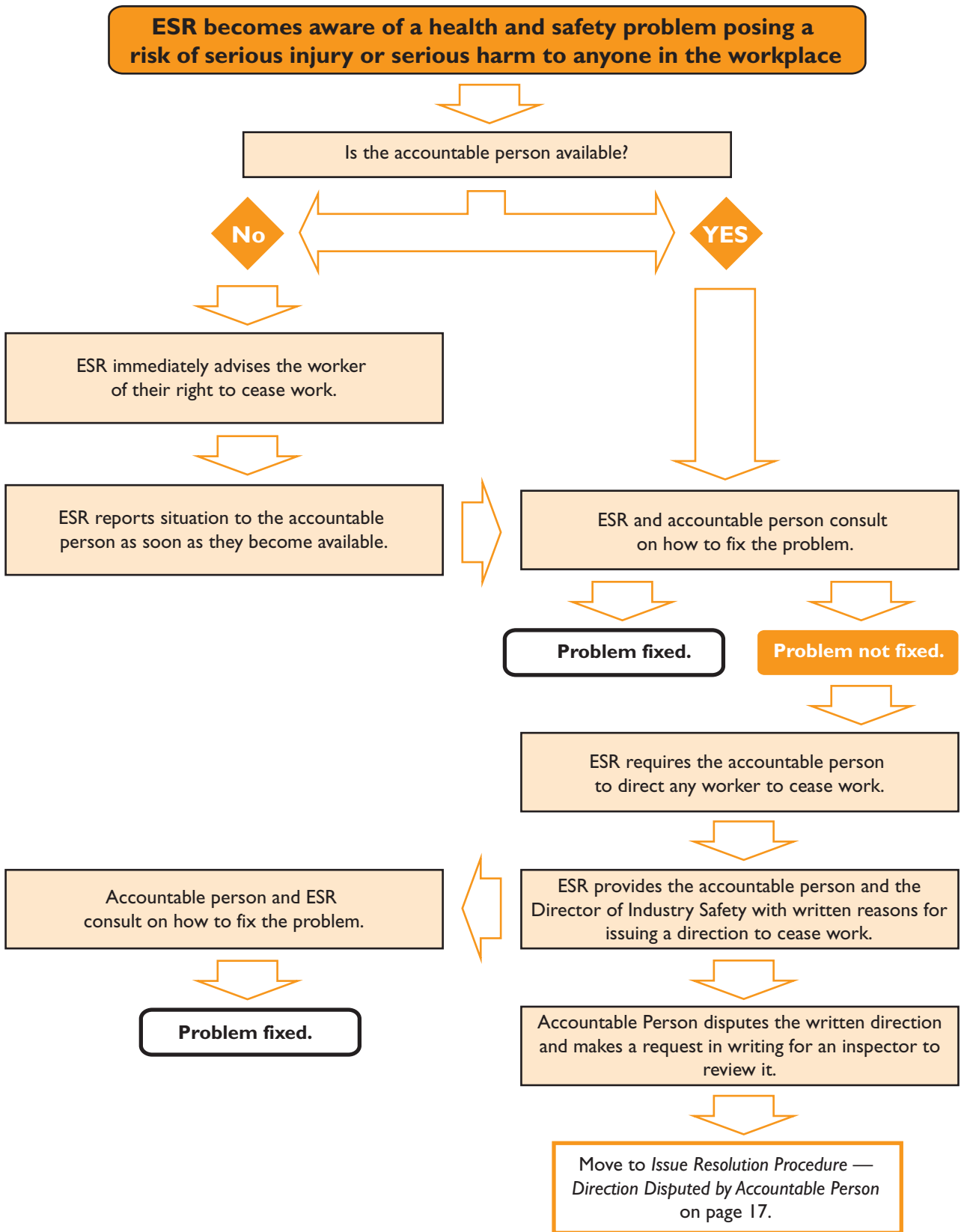
- dispute it by requesting an authorised inspector from Workplace Standards Tasmania to review the direction. This request must be made in writing.

What the inspector must do

The inspector must confirm, vary or cancel the direction as soon as is reasonably practicable. The direction is suspended pending the outcome of the inspector's investigation.

ISSUE RESOLUTION PROCEDURE — DIRECTION TO CEASE WORK (REGULATION 37)

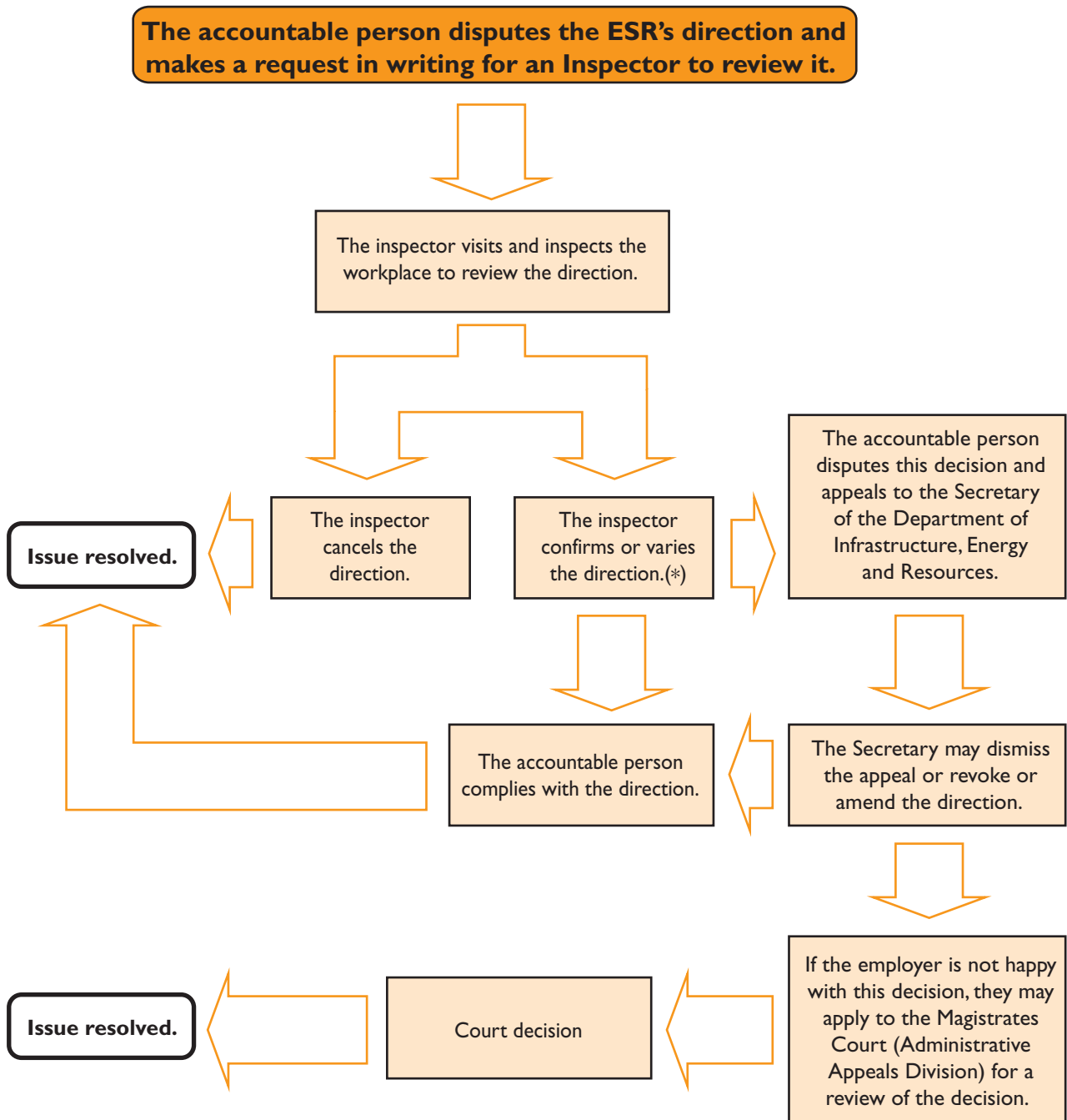
This is a summary only of the process. Please refer to page 15 for full details of what is required in this procedure.



See *What if your workplace does not have an agreed issue resolution procedure* on page 10 if your workplace does not have an agreed issue resolution procedure.

ISSUE RESOLUTION PROCEDURE — ESR DIRECTION DISPUTED BY ACCOUNTABLE PERSON

This flowchart summarises the process following an ESR’s directive being disputed by the accountable person. The Issue Resolution Procedure Flowcharts *Direction to Cease Work* and *Direction for Contravention of Act or Regulations* precede this flowchart.



* If an inspector confirms or varies the ESR’s direction by issuing a s.38 notice under the Workplace Health and Safety Act 1995, then other appeal provisions can apply. Further information on this process can be requested from the inspector.

RECORD KEEPING

You should keep records of any discussions you have and any activities you do.

This will help you in any workplace negotiations and if an inspector is called in, it demonstrates the consultation you have carried out to try and fix the problem.

Records you should keep include:

- diary entries and minutes of meetings and discussions
- emails, faxes
- memorandums, hand-written notes
- reports on accident investigations and inspections
- photographs from accident investigations
- hazard information relevant to your workplace.

CHECKLIST: GETTING STARTED

The following checklist summarises the steps you should take once you are elected as an ESR. You will need to do most of these together with your employer; this will help you both understand your functions and your legal requirements.

Tick once completed:

- Identify who the accountable person is in your workplace.
See *The accountable person* on page 5.
- Determine when you will do ESR training and which approved ESR training course you will attend.
See *Mandatory ESR training* on page 9.
- Determine the work time available for your ESR work and the facilities and resources available.
See *What your employer must provide you* on page 8.
- Develop an agreed issue resolution procedure you will follow when fixing health and safety problems.
See *What is an agreed issue resolution procedure* on page 10.
- Document this agreed issue resolution procedure and make sure all workers understand and follow it.
See *What is an agreed issue resolution procedure* on page 10.
- Determine when and how you will carry out any future inspections of your workplace.
See *Inspecting your workplace* on page 6.
- Determine how you will carry out investigations of any future accidents or dangerous occurrences.
See *Inspecting your workplace following an accident or dangerous occurrence* on page 7.
- Determine how you will record any discussions you have and any activities you do.
See *Record keeping* on page 18.

FURTHER INFORMATION

Workplace Standards Tasmania is committed to provide you with continued guidance, information and advice. Contact Workplace Standards Tasmania's:

ESR Liaison Officer

wstinfo@dier.tas.gov.au

The ESR Liaison Officer can provide guidance and information on all procedural issues related to your ESR role and functions.

Helpline

1300 366 322

The Helpline can provide information about the relevant legislation and workplace health and safety to everyone in the workplace.

Other sources

A representative from your union or employer representative may also be a source of information and support. Call Unions Tasmania on 6234 9553 or the Tasmanian Chamber of Commerce and Industry on 6236 3600 for more information.

Website

www.workcover.tas.gov.au/esr

This website provides information relevant to ESRs, all Workplace Standards Tasmania publications, and links to other Australian workplace health and safety websites.

Director of Industry Safety

Send a copy of your directions to the Director:

by fax to: 6233 8338

in person or by post to:

Workplace Standards Tasmania Rosny Office
30 Gordons Hill Road
PO Box 56, Rosny Park 7018

Workplace Standards Tasmania Launceston Office
Henty House, 1 Civic Square
Launceston 7250

Workplace Standards Tasmania Burnie Office
Reece House, 46 Mount Street
PO Box 287, Burnie 7320

by email to: wstinfo@dier.tas.gov.au

1300 366 322 www.workplacesafe.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

For more information contact
Workplace Standards Tasmania
Phone: 1300 366 322 (within Tasmania)
(03) 6233 7657 (outside Tasmania)
Fax: (03) 6233 8338
Email: wstinfo@dier.tas.gov.au