



Australian Government

**Safety, Rehabilitation and
Compensation Commission**

CONSULTATION GUIDELINES 2009

The Safety, Rehabilitation and Compensation Commission ('Commission') prepares and issues the appended Consultation Guidelines 2008 to Comcare and licensees and any person acting on its behalf, under section 73A of the *Safety, Rehabilitation and Compensation Act 1988*.

Dated [\[insert date\]](#)

Les Taylor
Chairperson

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Safety, Rehabilitation and Compensation Commission

CONSULTATION GUIDELINES 2009

Prepared and issued under section 73A of the
Safety, Rehabilitation and Compensation Act 1988

The Safety, Rehabilitation and Compensation Commission ('Commission') issues the guidelines set out below under section 73A of the *Safety, Rehabilitation and Compensation Act 1988* ('SRC Act'). The guidelines have been developed by the Commission in consultation with Comcare, licensed authorities and licensed corporations ('determining authorities') and apply on and from 1 March 2009.

These guidelines provide a description of consultation and apply in all instances where consultation with employees is a requirement under the SRC Act. Subsections 73A(5) and 73A(6) of the SRC Act provides that Comcare and a licensee and any person acting on its behalf must comply with these guidelines.

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1. "Consultation" in this context is defined to mean: "to appropriately inform employees, inviting and considering their response prior to a decision being made. Employee's opinions should not be assumed. Sufficient action must be taken to secure employees' responses and give the employees' views proper attention. Consultation requires more than a mere exchange of information. Employees must be contributing to the decision-making process, not only in appearance but in fact."
 2. The Commission has adopted the above definition of what constitutes consultation from the *Australian Industrial Relations Commission case, Australian Workers' Union v Campbell Mushrooms Pty Ltd 1183/96 Print N4825 (1996)*. This Australian Industrial Relations Commission decision can be obtained from **XXXXXX**.
 3. It is important to ensure that all employees are able to be part of the consultation process. This includes consideration of the appropriateness of the mechanisms for consultation, such as meetings, email etc.
 4. Any information provided should be in a form that can be easily understood and accessed by employees. This may include ensuring that there are arrangements in place to consult with employees from culturally or linguistically diverse backgrounds.
 5. The views of employees should be taken into account by employers before their final decision is made. Employers should respond to concerns and questions raised by

employees and give feedback to employees. They should explain to employees the final decision or course of action and why it has been taken.

6. Whilst employers and employees should aim to reach agreement as a result of consultation, conclusive agreement is not a required outcome. An employer is still ultimately responsible for making decisions.

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