

NSW Work Health & Safety Act



Module: Reviewable Decisions



What is different in WHS Act about Reviewable Decisions?

The Act provisions are **broadly similar** but NSW regulation does not include an internal review step - applicants go directly to a review by the Administrative Decisions Tribunal

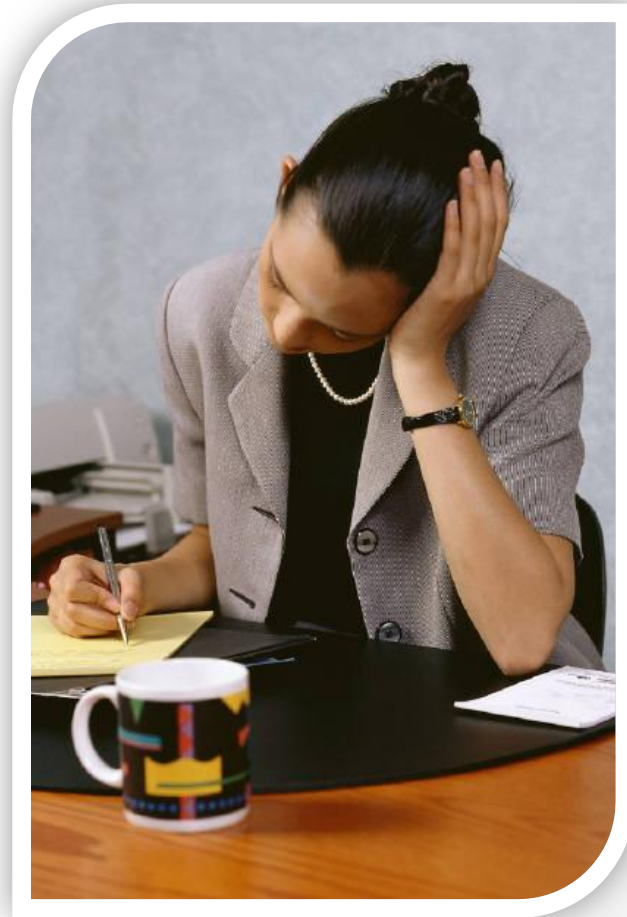


Differences in external review bodies (Industrial Magistrate v Industrial Relations Commission (IRC))



Overview of WHS Act

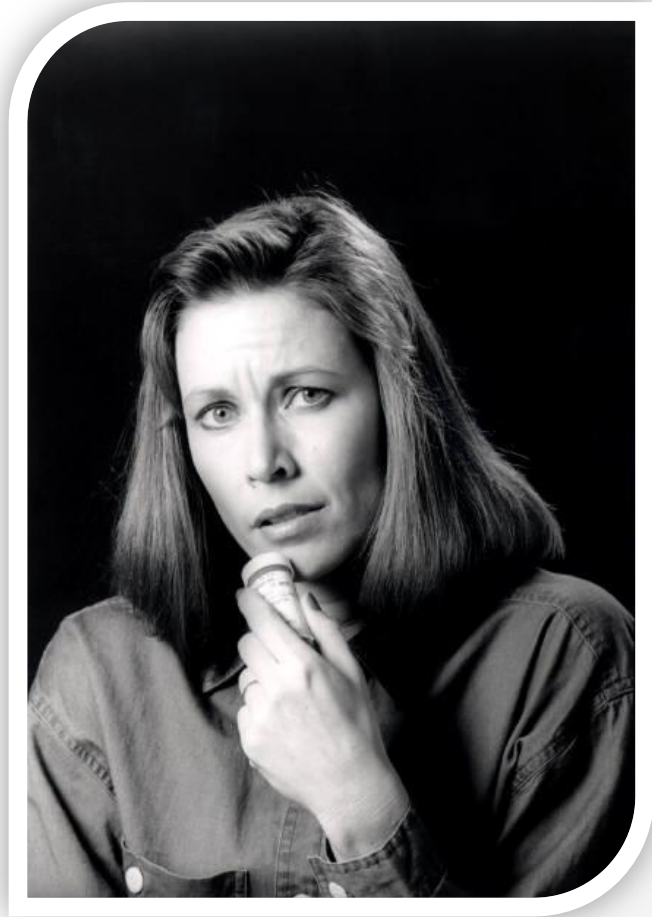
- The WHS Act lists reviewable decisions and establishes procedures for **internal review** by the regulator and arrangements for **external review** by the IRC.
- Those able to apply for review include **PCBU, workers and HSRs** if their interest are affected by the decision





Overview of WHS Act

- Typical matters for review under the Act include **Improvement and Prohibition Notices**
- Other matters include **disputes** about work groups, about HSR training courses and about the make up of H&S committees.
- The Act also refers certain matters for review to be **prescribed** in the regulations





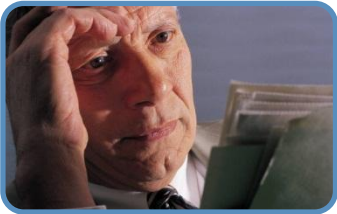
How an Improvement Notice is reviewed under the WHS Act:



Seek **internal** review within time set for compliance or **14 days** which ever is the lesser



The **internal** reviewer (WorkCover) has **14 days** to make decision



Can seek **external** review of WorkCover decision within **14 days** of being advised



Any application for review **stays the decision**



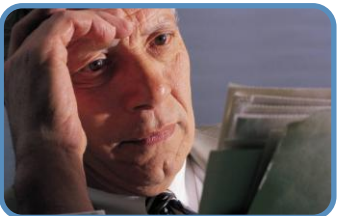
How a Prohibition Notice is reviewed under the WHS Act:



Seek **internal** review as soon as aware of Notice or **14 days** which ever is the lesser



The **internal** reviewer (WorkCover) has **14 days** to make decision



Can seek **external** review of WorkCover decision within **14 days** of being advised



Any application for review **does not stay** the Prohibition notice unless the reviewer decides to do so. If no decision has been made on a stay within one day it is deemed to have been stayed



What is the likely impact of these changes?

- **Little change** to Act review process particularly with Notices
- **Little change*** with regulations except an **internal** review step included
- IRC and Administrative Decisions Tribunal **likely to remain** as external reviewing bodies

