

## Key Points About Health and Safety Duties

### WHS Act: s13 -18

Duties are not transferrable – they cannot be delegated to another person

A person can have more than one duty e.g. a PCBU manufacturing plant has duties as a manufacturer, and duties as a PCBU to their own workers.

More than one person can have the same duty. Where this happens, each person is required to carry out their duty to the extent they have the capacity to influence and control the matter.

Where a person has a duty to ensure health and safety, this means they are required to:

- Eliminate risks to health and safety as far as reasonably practicable;  
Or, if this is not possible:
- Minimise the risks to health and safety so far as is reasonably practicable.

## Duties of a Person Conducting a Business or Undertaking (PCBU)

### WHS Act: s19

#### Primary duty of care:

A PCBU has the primary duty of care to ensure the health and safety of workers while they are at work in the business or undertaking.

A PCBU is also responsible for ensuring work carried out does not carry risk to the health and safety of others.

This means the PCBU must:

- Provide and maintain a safe work environment;
- Provide and maintain safe plant and structures;
- Provide and maintain safe systems of work;
- Ensure the safe use, handling and storage of plant, structures and substances;
- Provide adequate facilities (and ensure access is maintained);
- Provide instruction, training, information and supervision; and
- Monitor the health of workers and conditions at the workplace.

## Duties of PCBU – involved in the management of or control of workplaces

### WHS Act: s20

The PCBU of the workplace must ensure, so far as is reasonably practicable, that the workplace, the means of entering and exiting the workplace and anything arising from the workplace are without risks to the health and safety of any person.

## Duties of PCBU – involved in the management of or control of fixtures, fittings or plant at a workplace

### WHS Act: s21

The PCBU must ensure, so far as is reasonably practicable, that the fixtures, fittings and plant are without risks to the health and safety of any person.

## Duties of PCBU – as a designer, manufacturer, supplier or importer

### WHS Act: s22 – 25

A PCBU in relation to plant, substances or structures that are to be used, or could reasonably be expected to be used, as, or at, a workplace must ensure that the design, manufacture, import or

supply is without risk to health and safety of persons who may be affected. This includes provision of relevant information.

## **Duties of PCBU – that installs, constructs or commissions plant or structures**

### **WHS Act: s26**

The PCBU must ensure that the installation, construction or commission is without risk to health and safety of persons who may be affected by these activities.

## **Duties of Officers (of a PCBU) – e.g. director of a company**

### **WHS Act: s27**

Where a PCBU has a health and safety duty, an officer of the PCBU is required to exercise 'due diligence' to ensure the PCBU meets that duty.

Due diligence means taking reasonable steps:

- To gain and update knowledge of WHS matters;
- To understand the nature of the business/undertakings operations and the general hazards and risks involved;
- To ensure the PCBU has appropriate resources for eliminating/minimizing risks, and that these resources are actually used;
- To ensure the PCBU has processes for receiving, reviewing and responding to information about incidents, hazards and risks; and
- To ensure the PCBU implements processes for complying with their duties, such as:
  - Consultation;
  - Providing training and instruction; and
  - Reporting of notifiable incidents.

## **Duties of Workers**

### **WHS Act: s28**

#### **Take reasonable care for own safety;**

Take reasonable care to ensure acts or omissions do not adversely affect the health and safety of others;

Comply with reasonable instructions from the PCBU to assist them in complying with the WHS Act; and Co-operate with policies or procedures relating to health and safety that the workers have been notified of.

## **Duties of Self Employed Persons**

### **WHS Act: s19(5)**

Ensure their own health and safety (as far as reasonably practicable) while at work. Self-employed persons are also considered to be PCBUs.

## **Duties of Others – e.g. visitors**

### **WHS Act: s29**

Take reasonable care for their own safety;

Take reasonable care to ensure their acts or omissions do not adversely affect the health and safety of other persons; and

Comply with any reasonable instructions from a PCBU

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