

HEALTH AND SAFETY BASICS FOR YOUR BUSINESS

1. Everyone has the right to be healthy and safe at work, and a healthy and safe workplace is good for performance, productivity and your business generally.
2. Having effective and robust systems in place with a view to continuous improvement will give workers a clear understanding of how they can stay safe and healthy at work and help manage the risks that could lead to injury, illness or death.
3. Getting good advice on what your duties are and how to practically implement and achieve them is recommended.

What is a PCBU?

4. A PCBU is a 'person conducting a business or undertaking'. It is a broad term under the Health and Safety at Work Act (**HSWA**) to describe different forms of working arrangements that we often refer to as 'businesses'. A PCBU has a '*primary duty of care*' to ensure the health and safety of workers and others.
5. This does not include volunteer associations, home occupiers and/or workers. Specific considerations apply to these groups.

What is the primary duty of care?

6. This is another way of saying your business has the primary responsibility for the health and safety of workers or others who could be at risk by the work carried out, including customers, visitors or the general public. If you work with other businesses, each business has a primary duty of care.
7. You have a primary duty of care when your business:
 - 7.1 directs or influences work carried out by a worker;
 - 7.2 engages or causes to engage a worker to carry out work (including through sub-contracting);
or
 - 7.3 have management or control of a workplace.

How do you meet your primary duty of care?

8. To meet the primary duty of care, we recommend your business has effective policies and procedures in place, to assist with:
 - 8.1 providing and maintaining a safe system of work, including safe plant and structures;
 - 8.2 providing a work environment free from risk of harm to health and safety;
 - 8.3 providing adequate facilities that promote and assist with welfare of workers while at work;
 - 8.4 safe use, handling and storage of plant, structures and substances;
 - 8.5 providing the information, training, instruction and supervision that is necessary to protect people from risks to health and safety arising out of the work being done; and
 - 8.6 monitoring the health of workers and the conditions of the workplace to prevent illness or injury to workers, from the work being done.

Due diligence and officer duties

9. An officer is someone who holds a position in the business or undertaking, that allows them to exercise significant influence over the management of the business or undertaking. Officers can include directors, partners, trustees, CEOs or general managers.
10. An officer is *not* someone who merely advises or makes recommendations. Health and safety managers, team leaders and supervisors are examples of advisory positions that do not have significant influence over the management of the business.
11. Officers have a due diligence duty to take appropriate and proactive steps to ensure the PCBU complies with the HSWA, and officers need to be aware of the ways the HSWA can assist PCBUs to meet their obligations.

What does health mean?

12. The definition of health under the HSWA includes both physical and mental health. The primary duty of care requires PCBUs to monitor workers' health and the conditions of the workplace, with the aim of preventing injury or illness.
13. Identifying physical hazards and issues is considerably easier than identifying any mental health and psychosocial hazards. For this reason, mental health is often overlooked. Some common psychosocial hazards to be aware of include, but are not limited to:
 - 13.1 fatigue;
 - 13.2 stress;
 - 13.3 anxiety; and
 - 13.4 high pressure work.

What are hazards and risks and how do I assess these?

14. A hazard is anything that has the potential to cause death, injury or illness to a person. A hazard can be physical or mental, e.g., manual handling, machinery or bullying.
15. A risk is a present potential danger, and the existence of the risk may or may not be appreciated or realised. Risks arise when people are exposed to a hazard.
16. You can identify hazards in various ways, by taking proactive and reactive steps. For example, workplace inspections, audits, and consultation with workers can be incredibly useful ways to identify hazards.
17. A risk assessment involves:
 - 17.1 understanding the nature of the risk that could be caused by the hazard;
 - 17.2 determining the likelihood of the risked incident happening; and
 - 17.3 understanding what the consequences of the risked incident could be.
18. You should then practically manage those risks in accordance with the hierarchy of controls by eliminating the risk where possible and, if elimination is not possible, minimising the risk so far as is reasonably practicable.



Keeping track of health and safety

19. To keep track of health and safety in the workplace, PCBUs should make sure all health and safety documentation is up to date and relevant. Health and safety plans should be regularly reviewed, and we recommend you strive to constantly improve and enhance health and safety practices.
20. Key documents include:
 - 20.1 a health and safety charter;
 - 20.2 a health and safety policy; and
 - 20.3 a schedule of critical risks

Working with WorkSafe

21. WorkSafe, as the Government's primary health and safety regulator, has powers to investigate workplace incidents. Once WorkSafe has been notified, it will visit the workplace to conduct inquiries. WorkSafe will request information and documentation, take photos, remove or seize things/property/tools and compel interviews. PCBUs should cooperate with WorkSafe and seek legal guidance to understand rights and responsibilities during this time.

Our team of specialist workplace lawyers throughout the country are always happy to answer your questions, [contact us here](#)

Disclaimer: We remind you that while this e-resource provides commentary on employment law, health and safety and immigration topics, it should not be used as a substitute for legal or professional advice for specific situations. Please seek legal advice from your lawyer for any questions specific to your workplace