

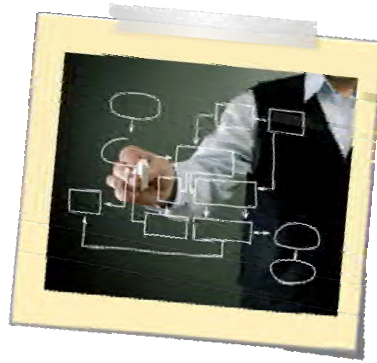
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# WHS Compliance Brief for Officers



## Program Notes





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### Fatal work injuries still occurring

- More than 400 people die every year in Australia from traumatic work incidents
- At least 40 of those people are innocent bystanders
- More than 100 die from trauma sustained on their way to or home from work
- More than 260 die from trauma suffered while they are working.

### Workers still seriously harmed

- During 2010 more than 12 in every 1000 employees were seriously harmed from work
- In some industries the number was more than 20 in every 1000 employees
- Other people were also seriously harmed but didn't make a compensation claim so aren't included in these numbers.

### Previous regulatory regimes inefficient

- Australia has had 9 different, independent OHS regulatory regimes
- Estimated \$16B cost to business in multi-regime OHS compliance costs
- Identified by COAG as a regulatory 'hotspot' impeding economic activity
- Federal government reform priority is towards a seamless Australian economy.

### Nature of work has changed

- Changing organisational practices  
(outsourcing, restructuring, privatisation, mergers, acquisitions, takeovers)
- Changing workforce composition  
(more part-time, casual, labour hire, off-site, females, ageing workers)
- Changing management techniques  
(franchises, agencies, developing technology)
- Changing market place  
(more service industries, globalisation).

### Safety improves when leaders lead but declines when they don't

### Intensive Australian review conducted

- Overseen by Workplace Relations Ministers Council

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- Administered by Safe Work Australia
  - Informed by extensive expert panel consultative reviews, reports and recommendations
  - Additionally informed by public review and comment on proposed new legislation.

#### **Result - harmonized WHS legislation**

- Model Work Health and Safety Act and Regulations
- Model Codes of Practice
- Mirror State & Territory WHS legislation, harmonised
- National enforcement policy
- Jurisdictional enforcement according to national policy.

#### **Objects of the model WHS Act**

- Secure the health and safety of workplaces, workers and others
- Give the HIGHEST level of protection against work-related harm as is reasonably practicable.

## 2: KEY WHS TERMS



### Person Conducting a business or Undertaking (PCBU)

A 'Person' conducting a business or undertaking (PCBU) is the legally recognised business, organisational, trading or operating entity, and may be a:

- Commercial or not-for-profit company, corporation, incorporated partnership, unincorporated partnership (in which each partner is a PCBU), unincorporated association, government agency, sole trader or self-employed individual
- 'Person' with management or control of a workplace (to the extent of their management or control)
- 'Person' with management or control of fittings, fixtures or plant at a workplace (to the extent of their management or control of those things)
- 'Person' that designs, manufactures, imports, supplies, installs, constructs or commissions plant, structures or substances for use or potential use at (or as) a workplace.

### Workers

'Workers', to whom WHS duties of care are owed and who owe duties of care, are ANY persons who carry out work in ANY capacity for a PCBU, including as:

- Employees (permanent, casual, full or part time)
- Contractors or subcontractors (and their employees)
- Labour hire company employees
- Outworkers
- Apprentices or trainees
- Students gaining work experience
- Volunteers
- Self-employed persons or sole traders (both of whom are also PCBU's).

### Officers

The 'officers' of a PCBU include EACH:

- Director
- Company secretary
- Person who makes decisions or participates in making decisions that affect the whole or a substantial part of the business or undertaking

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- Person with capacity to significantly affect the financial standing of the business or undertaking
  - Person whose wishes or instructions (excluding proper professional advice) customarily influence directors' actions
  - Receiver, receiver manager or administrator of the business or undertaking.

### Workplace

A 'workplace' is ANY 'place' where work is carried out for a business or undertaking and includes any 'place' a worker goes or is likely to be while at work, including:

- Premises or installations on land
- Vehicles, vessels, aircraft and other mobile structures
- Waters, installations on beds of waters or installations floating on waters.

### Reasonably Practicable

'Reasonably practicable' is the standard that qualifies a PCBU's duties and obligations. It means doing that which is (or was) able to be done, TAKING INTO ACCOUNT and WEIGHING UP:

- a) The likelihood of a hazard or risk occurring
- b) The degree of harm that may result
- c) What the PCBU knows (or ought reasonably to know) about the hazard or risk and means of control
- d) The availability and suitability of control measures
- e) AFTER considering all of the above, the cost of available and suitable control measures, including whether cost is grossly disproportionate to the risk.

### Due Diligence

The 'due diligence' required of each officer of a PCBU is defined as TAKING REASONABLE STEPS to:

- a) Acquire and keep up-to-date knowledge of WHS matters
- b) Understand the PCBU's operations and generally the associated hazards and risks
- c) Ensure the PCBU has (and uses) appropriate resources to eliminate or minimise risks from work carried out
- d) Ensure the PCBU has (and efficiently uses) processes for receiving, considering and responding to incident, hazard and risk information
- e) Ensure the PCBU has (and implements) processes for complying with its WHS duties and obligations
- f) Verify the provision and use of the resources and processes of due diligence outlined in c) - e) above.

### 3: PCBU PRIMARY DUTIES



A PCBU holds the primary duty to ensure work health and safety. This duty to 'ensure health and safety' requires the elimination of risks to health and safety so far as is reasonably practicable, or if risk elimination is not reasonably practicable, minimisation of risks so far as is reasonably practicable.

Each PCBU must ensure, so far as is reasonably practicable:

1. The health and safety of all workers
2. That the health and safety of other persons is not put at risk
3. Risks to the health and safety of ANY person do not arise from:
  - The workplace, workplace entries or exits
  - Workplace fittings, fixtures or plant
  - Anything provided in any form for use or potential use by another PCBU
4. (if self-employed) His or her own health and safety at work.

#### Facilities

Each PCBU must ensure, so far as is reasonably practicable, the provision and maintenance of adequate and accessible facilities for workers, particularly in relation to:

- Drinking water
- Toilets
- Hand washing
- Dining facilities
- Personal storage
- Changing rooms
- Shower facilities

What is 'reasonably practicable' includes consideration of workplace size and location; workforce numbers and composition; and the type of work undertaken.

#### Work Environment

Each PCBU must ensure, so far as is reasonably practicable, the provision and maintenance of a work environment that is without risks to health and safety, including in relation to:

- Entries and exits
- Seating
- Housekeeping

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- Work areas
  - Floors and other surfaces
  - Workstations
  - Lighting
  - Air quality
  - Heat and cold
  - Work near essential services
  - Outdoor, remote or isolated work
  - Emergency plans.

### **Information, Training, Instruction and Supervision**

Each PCBU must ensure, so far as is reasonably practicable, the provision of ANY NECESSARY:

1. Information
2. Training
3. Instruction
4. Supervision

in order to protect ALL persons from health and safety risks arising from work undertaken as part of the conduct of the business or undertaking.

### **Plant, Structures and Substances**

Each PCBU must ensure, so far as is reasonably practicable:

1. The provision and maintenance of safe plant and the safe use, handling and storage of that plant
2. The provision and maintenance of safe structures and the safe use, handling and storage of those structures
3. The safe use, handling and storage of substances.

### **Monitoring Health and Conditions**

Each PCBU must ensure, so far as reasonably practicable, the monitoring of:

1. Workers' health
2. Workplace conditions

in order to prevent illness or injury to workers arising from the conduct of the business or undertaking.

### **Accommodation**

IF a PCBU owns, manages or controls any accommodation that a worker occupies because it is necessary for his or her work and alternative accommodation is not reasonably available, the PCBU must, so far as reasonably practicable, maintain the premises so the worker is not exposed to health and safety risks.

## 4: DUTIES OF WORKERS AND OTHER PEOPLE



WHS duties of workers and others are qualified by a standard of 'reasonable care', meaning the degree of health and safety care that in the same circumstances would be expected of an ordinarily prudent and rational person.

### **Duties of workers while at work**

Workers must:

1. Take reasonable care for their own health and safety
2. Take reasonable care that their actions or omissions don't adversely affect anyone else's health or safety
3. (so far as they are reasonably able) Comply with the PCBU's reasonable instructions given to ensure the PCBU's WHS compliance
4. Cooperate with the PCBU's reasonable WHS policies and procedures (so far as those have been notified to workers).

### **Duties of others at the workplace**

Other people must:

1. Take reasonable care for their own health and safety
2. Take reasonable care that their actions or omissions don't adversely affect anyone else's health or safety
3. (so far as they are reasonably able) Comply with the PCBU's reasonable instructions given to ensure the PCBU's WHS compliance.

## 5: CONSULTATION

Consultation, involving cooperation and coordination between duty holders, is an express legal duty owed by PCBU's to workers.



### Who?

So far as is reasonably practicable, a PCBU must consult ALL workers who carry out work for the business or undertaking who are (or are likely to be) directly affected by a health and safety or related matter.

### Why?

Consultation is required because in practice, safety outcomes depend on consultation. Experienced people working together propose better solutions and are more likely to apply them, and duty holders working together can ensure seamless application of those solutions across work operations.

### When?

Consultation is required:

1. Throughout the entire WHS risk management process
2. When proposing changes that may affect worker health and safety
3. When making decisions about workers' facilities
4. When making decisions about:
  - Procedures for worker information and training
  - Consultation
  - Issue resolution
  - Monitoring of worker health or workplace conditions.

### What?

Consultation requires:

1. Sharing relevant WHS information with workers likely to be affected
2. Giving workers reasonable opportunity to express views, raise issues and input decisions
3. Involving workers' Health and Safety Representative(s)
4. Taking workers' views into account
5. Giving workers timely advice of outcomes.

### How?

One of several consultation arrangements may suffice, provided:

1. It is chosen in agreement with workers
2. It ensures all workers can participate

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3. It suits the size, nature and operations of the organisation
  4. It is an integral part of the risk management process

Options include HSR's, Health and Safety Committees, informal arrangements or a combination of these.

### How Deep?

Consultation with workers must be 'so far as is reasonably practicable', defined (in the context of consultation) as taking a reasonable, proactive and sensible approach, considering:

1. Organisational size, structure and work arrangements
2. Work operations and the risks involved
3. The nature and urgency of particular actions or decisions
4. Worker characteristics including language and literacy

### How Wide?

PCBU's with workers at the same workplace or on the same work project as other PCBU's (e.g. construction, retail centres, labour hire etc) must consult together to ensure the health and safety of workers and that others are not put at risk.

EACH person with WHS duties for the same matters must:

1. Fulfil those duties to the extent of their influence or control
2. Consult, cooperate & coordinate activities with shared duty holders.

### Health and Safety Representatives

If a worker asks to be represented in WHS matters by a Health and Safety Representative (HSR), or if a PCBU so proposes, the PCBU must facilitate:

1. A determination of group(s) of workers (work groups) the HSR(s) will represent
2. An election for the HSR(s)
3. The negotiation of an agreed consultation arrangement involving the HSR(s)

Other than at a worker's request, HSR's are not mandatory. However a PCBU's duty to consult workers is undiminished by their absence.

### Work Groups

The work groups to be represented by individual HSR's must be determined by negotiation and agreement between the PCBU and the workers who will form the group. Negotiations are to cover:

1. The number and composition of work groups
2. The number of HSR's to be elected
3. The workplace(s), business(es) or undertaking(s) to which the work group(s) will apply.

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Work groups established prior to the WHS Act may also, by negotiation and agreement between the PCBU and workers, be retained or varied.

### **Multiple-PCBU Work Groups**

Work groups of workers for two or more PCBU's can be negotiated and agreed between the PCBU's and the workers concerned.

Multiple-business work groups (and therefore their HSR's):

1. Can traverse more than one workplace
2. Can involve workers who are already members of other work groups
3. Can be varied by negotiation and agreement
4. Do not prevent the PCBU's or workers from making additional arrangements

Participating PCBU's are equally responsible for the costs of shared HSR functions and training.

### **HSR Elections**

1. Workers are eligible for election as work group HSR's if they are members of the work group
2. Work groups may determine how their HSR elections are conducted, including by unions, organisations or other persons
3. Only (and all) members of work groups may vote for their HSR's
4. If there are the same number of HSR candidates as positions, elections can be assumed and not conducted
5. The term of HSR office is 3 years but HSR's may be re-elected, resign, be disqualified or removed from office in accordance with the regulations.

### **HSR Powers & Functions**

HSR's are conditionally empowered by law to represent work group members in health and safety matters, including by:

1. Monitoring WHS compliance by the PCBU
2. Investigating WHS risks and complaints
3. Inspecting workplaces and work areas (with or without WHS inspectors)
4. Attending interviews and receiving information
5. Requesting the establishment of Health and Safety Committees or assistance from other persons
6. (If trained) Directing unsafe work to cease and issuing provisional improvement notices.

HSR's can't be held personally liable for actions taken (or not taken) in good faith in the exercise of their powers or functions.

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## HSR Training

A PCBU must, if requested by a HSR (and/or a deputy HSR), grant the HSR permission and time off work as soon as practicable (within 3 months of the HSR's request) at full pay to attend a WHS training course:

1. That is approved by the regulator
2. That the HSR is legally entitled to attend
3. That has been chosen by the HSR in consultation with the PCBU
4. For which the PCBU must pay the course cost and associated reasonable expenses

HSR's are also entitled to one day's WHS refresher training each year following the completion of their initial training. Further training may also be agreed between the PCBU and HSR's.

## PCBU General Obligations to HSR's

A PCBU must, so far as reasonably practicable:

1. Consult with HSR's on WHS matters
2. Confer with HSR's at their request in representing the health and safety of their work group
3. Grant HSR's access to relevant worker and work group safety information and work areas (Confidentiality of workers' personal information must be maintained. Without a worker's permission, information shared must not identify or lead to the identification of that worker)
4. Resource, assist and allow HSR's adequate time to exercise the powers and perform the functions of their role
5. Prominently display and provide to the regulator a current list of HSR's.

## Health and Safety Committees

A Health and Safety Committee (HSC) is one way for a PCBU to facilitate WHS consultation and the participation of workers in WHS decisions.

It is not always necessary to establish a HSC but a PCBU:

1. May do so on their own initiative
2. MUST do so if requested by:
  - A HSR of a work group at the workplace
  - 5 or more workers at the workplace.

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## HSC Membership

The membership of a HSC can be agreed between the PCBU and workers at the workplace provided two requirements are met:

1. A HSR at the workplace who consents to be a member *is* a member
2. At least half the members must be workers the PCBU has not nominated for membership.

## HSC Functions

The role of a HSC is strategic and wide-reaching:

1. Setting WHS direction and steering WHS management across the whole organisation and workforce
2. Considering the development, implementation and review of WHS policies, procedures and systems
3. Facilitating PCBU-worker participation and cooperation in developing and ensuring implementation of WHS measures, standards, rules and processes

A HSC can also fulfil other functions agreed with the PCBU or determined by WHS regulations including, in the absence of a HSR, addressing day-to-day WHS issues.

## PCBU General Obligations to HSC Members

A PCBU is required to support the function of a HSC by:

1. Allowing HSC members to spend the time reasonably necessary to attend HSC meetings and carry out their functions
2. Ensuring HSC members receive their usual pay entitlements for time reasonably spent on HSC matters
3. Allowing HSC members access to any workplace hazard, risk and worker safety information the PCBU has. (Confidentiality of workers' personal information must be maintained. Without a worker's permission, information shared must not identify or lead to the identification of that worker).

## HSC Meetings

A Health and Safety Committee:

1. Must meet at least once every 3 months AND at any reasonable time at the request of at least half the members of the Committee
2. May determine its own procedures for organising and conducting its meetings

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## HSR's and HSC's

The role of HSR's is more immediate and tactical than HSC's.

HSR's that are members by consent of a HSC are able to contribute practical 'grass roots' safety information and experience to HSC deliberations, helping ensure the HSC's strategic decisions will produce effective outcomes for the workers represented.

Multiple HSR's in a workplace may agree together to choose the HSR's that will be Committee members.

## HSC Member Training

HSC members are not required by law to undertake specific WHS training. This should not prevent a PCBU and HSC members negotiating, agreeing on and undertaking suitable training.

However, if HSC members who are HSR's request training, the PCBU must:

1. Allow the HSR time off work at full pay to attend an approved WHS training course chosen by the HSR in consultation with the PCBU
2. Pay the course fees and associated reasonable expenses.

## Issue Resolution

If health and safety issues arise that can't be resolved by consultation and discussion, the parties to the issue:

- Must make reasonable and timely efforts to achieve a final and effective solution
- May be assisted and represented by suitably qualified internal or external representatives
- May refer matters to the regulator.

## 6: NOTIFIABLE INCIDENTS



A PCBU must ensure that the regulator is notified IMMEDIATELY after the PCBU becomes aware that, arising out of the conduct of the business or undertaking, an incident in one of these three categories has occurred:

### Fatal Incident

Any injury, illness or incident involving the death of ANY person.

### Dangerous Incident

Any 'dangerous' incident that imminently or immediately exposes ANY person to a serious health or safety risk, for example from:

- Uncontrolled substance, gas or steam release
- Fire, implosion or explosion
- Failure or collapse of a structure, authorised plant, excavation, tunnel working or ventilation system underground in an excavation or tunnel
- Fall or release of anything from a height
- Electric shock

### Serious Injury or Illness

A 'serious' injury or illness that results in any person's:

1. Immediate treatment as a hospital in-patient or
2. Immediate treatment for:
  - Amputation
  - Serious burns, lacerations, head or eye injury
  - Skin tearing from underlying tissues
  - Spinal injury
  - Loss of a bodily function
3. Medical treatment within 48 hours of exposure to a substance.

### Notify, Preserve and Record

1. Notify the regulator:
  - By the fastest possible means
  - By telephone or in writing
2. Preserve the incident site until an inspector arrives or directs otherwise
3. Keep a record for at least 5 years from notification date

These requirements don't prevent assisting the injured, making a site safe or assisting police



The due diligence duty of officers is proactive and held by each officer individually. Liability for not fulfilling a due diligence duty is a *strict* liability and exists even if a PCBU is complying with *its* duties, and whether or not intention or recklessness is involved.

Each individual officer's duty is *also* held by every other officer of the PCBU concurrently. Because the duty is shared, consultation, cooperation and coordination are required between officers in planning and taking due diligence actions.

What constitutes 'due diligence' is defined as taking reasonable steps in 6 specific areas that together give practical effect to safety leadership:

### 1. WHS Knowledge

Officers are required to take reasonable steps to acquire and keep up-to-date knowledge of work health and safety matters.

Some of the ways up-to-date knowledge can be gained is through:

- Officer WHS training
- Safety performance reports
- Regular briefings from relevant personnel
- Case law
- Relevant Codes of Practice and technical Standards
- Industry and specialist publications
- Regulatory, industry association and specialist websites and services

Ignorance is *not* a defence - it's an *offence*.

### 2. Understanding of Operating Hazards and Risks

Officers are required to take reasonable steps to understand the nature of their business or undertaking and generally, the hazards and risks associated with those operations.

Adequate understanding is gained primarily through intelligent information-gathering and from first-hand, active discussion with workers, asking questions like:

- In the kind of work you do, what do you think could hurt someone?
- What are we doing to stop people getting hurt by those things?
- Could we do it any better?
- How else could we make things safer for you and other people?

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### 3. Provision and Use of WHS Resources

Officers are required to take reasonable steps to ensure the PCBU has and uses appropriate resources and process to eliminate or minimise work health and safety risks. Appropriate investment should be made in:

- Establishing and implementing safety infrastructure, processes and systems
- Informing, training and supervising workers

Officers are required to make *sure* that the right people with the right skills, experience and equipment are always in the right place supported by the right resources to make sure work health and safety risks are effectively controlled.

### 4. Hazard and Incident Response Processes

Officers are required to take reasonable steps to ensure the PCBU has and implements appropriate processes for receiving, considering and responding in a timely way to incident, hazard and risk information.

Processes could include:

- Regular safety reporting
- Set safety objectives, targets and responsibilities
- Continual identification and monitoring of safety hazards, risks and risk controls
- Timely review of safety incidents and planning and monitoring of corrective actions
- Performance measurement against set safety objectives and targets.

### 5. WHS Compliance Processes

Officers are required to take reasonable steps to ensure the PCBU has and implements processes for complying with its work health and safety duties and obligations. Compliance processes could include:

- Regular systematic review of policies, practices and systems for compliance with the Act, Regulations and applicable Codes of Practice
- Regular review of safety reports for compliance gaps
- Semi-regular compliance audits by internal reviewers
- Periodic compliance audits by legally qualified external reviewers and
- Compliance gap corrective action procedures and responsibilities and time frames

Officers aren't required to conduct reviews and audits *personally* but they *are* required to ensure that they're undertaken, reported and acted upon.

### 6. Verification of Provision and Use of WHS Resources and Process

Officers are required to take reasonable steps to verify that provision and use of the resources and processes of due diligence required for control of risks, for hazard and incident response and for legal compliance. This requires each officer to take active steps to personally verify that safety infrastructure, processes and systems are in place, working, used as planned and are effective.



A graduated regime of enforcement strategies is available to the regulator to enforce compliance with WHS legislation.

In addition,

1. Trained HSR's of a PCBU have powers to:
  - Direct unsafe work to cease
  - Issue enforceable Provisional Improvement Notices
2. Workers for a PCBU have the right to stop or refuse to undertake unsafe work
3. WHS Entry Permit holders have conditional authority to enter workplaces to enquire into (reasonably suspected) WHS contraventions.

### Workplace Entry by Entry Permit Holders

A WHS entry permit-holder (union official authorised by the regulator) has conditional authority to enter a workplace:

- Without prior notice to inquire into a (reasonably suspected) WHS contravention
- With prior notice to consult with or advise workers or warn any person believed to be at serious risk

It is an offence to hinder a permit-holder's legitimate entry to a workplace or the exercise of his or her rights on entry.

### Workplace Entry by Inspectors

Inspectors of the regulator have conditional authority to:

- Provide WHS compliance information, advice and assistance services to duty holders
- Enter workplaces with or without consent
- Enquire into and investigate contraventions
- Review disputed PIN's issued by HSR's
- Require compliance through issuing Notices
- Prosecute contraventions
- Attend coronial inquests and examine witnesses

### Improvement Notice

If an inspector reasonably believes a person is contravening or has contravened the WHS Act and may do so again, the inspector can issue an Improvement Notice, requiring that person, by a due date, to:

1. Remedy the contravention and its cause(s)

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2. Prevent a likely contravention from occurring
  3. Take specific remedial actions

Penalties of up to \$50K (individual) and \$250K (body corporate) apply for not complying with the Notice.

### **Non-Disturbance Notice**

An inspector who reasonably believes it necessary for the exercise of his or her compliance powers may issue a person with management or control of a workplace with a Non-disturbance Notice:

1. Specifying the obligations and time period of the Notice
2. Preventing disturbance of a site (including plant, structures, substances or things)
3. Prescribing preservation measures to be taken

Penalties of up to \$50K (individual) and \$250K (body corporate) apply for not complying with the Notice.

### **Prohibition Notice**

An inspector who reasonably believes a person may be put at serious health or safety risk from immediate or imminent exposure to a hazard from a workplace activity may issue a Prohibition Notice to the person controlling the activity:

1. Prohibiting the activity or its method
2. Prescribing corrective risk control measures
3. Requiring rectification to the inspector's satisfaction

Penalties of up to \$100K (individual) and \$500K (body corporate) apply for not complying.

### **Remedial Action**

If a person issued with a Prohibition Notice does not take reasonable steps to comply, or if a person who *would* have been issued with a Prohibition Notice can't be found (after reasonable attempts), the regulator may take actions the regulator deems necessary to make a workplace or situation safe. Remedial actions taken are at the person's cost, recoverable from the person as a debt due to the regulator.

### **Injunction**

If the regulator has issued a person with an Improvement, Prohibition or Non-disturbance Notice and the person:

- Doesn't comply with the Notice or
- Contravenes the Notice,

the regulator may apply to the courts for an injunction to compel the person to comply with or stop contravening the Notice.

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### **Enforceable Undertaking**

Instead of prosecution, the regulator MAY accept an enforceable WHS undertaking from a person to take specific actions to rectify a contravention. Once accepted, the undertaking:

- Is legally binding
- Is not an admission of guilt
- Prevents proceedings for the contravention
- Is published on the regulator's web site

Penalties of up to \$50K (individual) and \$250K (body corporate) apply for non-compliance with the undertaking.

### **Infringement Notice**

If there is evidence that a person has contravened the Act in a way that is punishable but does not warrant prosecution, the regulator may issue the person with an Infringement Notice requiring immediate payment of a monetary penalty for the contravention(s).

The person can:

- Pay the penalty
- Elect not to pay the penalty and have the matter heard by the court
- Fail to pay the penalty and become liable to court proceedings.

### **Prosecution**

The regulator or the Director of Public Prosecutions may bring criminal proceedings for a WHS offence. The onus is on the prosecution to prove, beyond reasonable doubt:

1. A Category 1 breach involving reckless conduct  
Penalties up to \$3M (corporation), \$600K (officer), \$300K (individual) and 5 years in jail (officer or individual)
2. A Category 2 breach involving high risk  
Penalties up to \$1.5M (corporation), \$300K (officer), \$150K (other)
3. A Category 3 breach  
Penalties up to \$500K (corporation), \$100K (officer), \$50K (other)

### **Reviewable Decisions**

The following enforcement decisions are open to review internally (by the regulator) or externally (e.g. by the Administrative Decisions Tribunal):

- Review by inspector of Provisional Improvement Notice
- Improvement Notice issued or time frame set
- Prohibition Notice issued
- Non-disturbance Notice issued
- Variation or cancellation by regulator of Notice issued

(Decisions other than enforcement decisions, such as licenses and authorisations, are also reviewable)

## 9: ACKNOWLEDGEMENTS



1. **Safe Work Australia:** Model Work Health and Safety Act
2. **Safe Work Australia:** Model Work Health and Safety Regulations
3. **Safe Work Australia:** Code of Practice: *How to Consult on Work Health and Safety*
4. **Safe Work Australia:** Interpretive Guideline - *Model WHS Act: Meaning of 'Reasonably Practicable'*
5. **Safe Work Australia:** Interpretive Guideline - *Model WHS Act: Health and Safety Duty of an Officer under Section 27*
6. **Safe Work Australia:** Interpretive Guideline - *Model WHS Act: Meaning of 'Person Conducting a Business or Undertaking'*
7. **WorkCover NSW:** Training Facilitators' Guide: *New WHS Act for employer associations, GTOs and PCBUs*
8. **Workplace Health and Safety Queensland:** *Executive Officers - know your health and safety duties under the new laws*
9. **M Tooma:** *Due Diligence Workshop Workbook*, Norton Rose 2011.
10. **Teck Resources Limited:** *Courageous Safety Leadership*
11. **BBC and Stone City Productions:** *Piper Alpha Disaster*