

Information for small business owners

Overview of your responsibilities to provide a healthy and safe workplace.

Do you know:

- how the Work Health and Safety laws (WHS laws) will apply to you?
- what the new term 'persons conducting a business or undertaking' (PCBU) means?
- what you must do to protect the work health and safety of your workers?
- how to consult with your workers before making decisions about health and safety?
- where to go for advice on work health and safety?

This information sheet will answer these questions. It also provides a summary of your duties as a small business owner, and outlines how to consult with your workers about health and safety issues.

What is a 'PCBU' and who is a 'worker'?

'PCBU' is a new term in the WHS law that replaces 'employer' in the Northern Territories old health and safety legislation. If you previously had duties as an employer, you are now a PCBU under the WHS laws.

In many cases PCBU still refers to an employer but it's also used to describe others such as contractors, designers, manufacturers, suppliers, importer, persons who install, construct or commission plant or structures, franchisees and self-employed people. It's a broad concept that aims to capture all types of working arrangements.

A PCBU may be an individual person or legal entity, working for profit or not-for-profit.

The term 'employee' has also been broadened to 'worker'. This means all who work for a PCBU have rights and responsibilities under the WHS laws, including workers, contractors or subcontractors, workers of a contractor or subcontractor, labour hire workers, outworkers, apprentices or trainees, work experience students and volunteers.

Workers also have a duty to take reasonable care of their own health and safety while at work.

Note that if you are self-employed, you can be a worker and a PCBU. Self-employed people must ensure their own health and safety while at work, so far as is reasonably practicable.

Reasonably Practicable

To work out what is 'reasonably practicable' in a given situation, you, as the PCBU, must consider the following factors:

- the likelihood of the relevant hazard or risk occurring (e.g. the probability that someone could be injured by the work being done)
- the degree of harm that might result (e.g. fatality, multiple injuries, medical or first aid treatment, long or short-term health effects)
- what you know, or ought reasonably to know, about the hazard or risk and ways of eliminating or minimising the risk
- the availability and suitability of ways to eliminate or minimise the risk.

After taking these factors into account, you may also consider costs related to available ways of eliminating or minimising the risk, including whether the cost is grossly disproportionate to the risk.

Your duties

As a small business owner (PCBU), you have a primary duty of care to ensure the health and safety of your workers and eliminate risks that may cause them harm, so far as is reasonably practicable, while they are at work. If it isn't practicable to eliminate risks, they must be minimised by using appropriate control measures.

Specific duties you must comply with, so far as is reasonably practicable, include:

- providing and maintaining a working environment that is safe and without risks to health (e.g. control of physical, chemical, biological and organisational risks)
- providing and maintaining plant, structure and systems of work that are safe and do not pose health risks (e.g. providing effective

- guards on machines and regulating the pace and frequency of work)
- providing and maintaining safe systems of work (e.g. how work is organised, work pace and work demands, and procedures to prevent or manage fatigue, stress and violence)
- ensuring the safe use, handling, storage and transport of plant, structure and substances (e.g. toxic chemicals, dusts and fibres)
- providing adequate facilities for the welfare of workers (e.g. washrooms, drinking water, lockers and dining areas)
- providing workers with the necessary information, instruction, training or supervision to work safely and without risk to their health
- monitoring the health of your workers and workplace conditions to prevent injury or illness (e.g. collection and review of injury and incident data, regular hearing tests for workers in noisy environments where personal protective equipment is required)
- maintaining any building owned or under your management and control to ensure the health and safety of workers occupying the premises.

Eliminate or Minimise the Risk

Eliminate risk

For example:

- remove a noisy machine from a quiet area
- clean using a physical rather than chemical process
- replace a dangerous chemical with a safe one
- remove a process that causes work stress
- replace or repair torn carpets to prevent tripping or falling.

If eliminating risk is not possible, minimise risk

For example:

- modify tools and equipment
- use enclosures, guarding or ventilation
- reduce the number of workers exposed to the risk by rotating jobs
- provide training on how to do the job safely
- use personal protective clothing and equipment.

You must also ensure, so far as is reasonably practicable, the health and safety of other people (e.g. visitors or customers) is not at risk from work carried out.

Consultation

In many small businesses consultation with workers occurs on a day-to-day basis to ensure jobs are done safely. You must consult with workers, so far as is reasonably practicable, on issues affecting their health and safety. This includes identifying hazards and assessing risks arising from work, and proposing changes that may affect the health and safety of workers.

You must also consult with your workers and take their views into account when making decisions about:

- ways to eliminate or minimise risks
- the adequacy of facilities for workers' welfare
- procedures for consulting workers
- resolving health and safety issues
- monitoring the health and safety of workers or workplace conditions
- how to provide health and safety information and training to workers.

Consultation must involve:

- sharing relevant health and safety information with workers
- giving workers a reasonable opportunity to express their views, raise health and safety issues and contribute to the decision making process
- taking their views into account
- providing information on the results of the consultation.

The mechanisms listed in the table below provide a way of giving your workers a voice on health and safety matters. They will also help you meet your duty to consult with them.

Work groups
A group of workers who share similar health and safety concerns and conditions. Any worker or group of workers can ask you to set up a work group by requesting the election of a health and safety representative (HSR).
HSRs
Represent the health and safety interests of a work group. A work group can have as many HSRs and deputy HSRs as agreed after consultation, negotiation and agreement between workers and their PCBUs. If a request is made for the election of an HSR, you must start negotiations with workers within 14 days.
Health and safety committees (HSCs)
Facilitates cooperation between a PCBU and workers in developing and carrying out measures to ensure health and safety at work. This includes health and safety standards, rules and procedures for the workplace.

You must not discriminate against a worker because of their involvement in workplace health and safety, for example being an HSR or member of an HSC.

Note: If you are a small business owner with fixed or mobile plant, have dangerous goods, hazardous chemicals or undertake high risk work, you may want to consider obtaining professional OHS advice to ensure you have proper risk controls in place.