

# Introduction to the Work Health and Safety Act 2020

Healthy and safe workplaces are everybody's business, which is why when it comes to health and safety, it's important that our laws reflect today's modern workplaces.

We now have a greater variety of work types than we've had in the past, including freelancers, labour hire, gig economy workers, contractors and subcontractors, and, of course, the classic worker and employer relationship we've always known.

A lot of businesses operate across multiple states and managing health and safety under different laws can be challenging.

On the 31st of March 2022, most Western Australian workplaces came under a single Work Health and Safety Act that reflects our modern working conditions, and is more consistent with work health and safety laws across Australia.

The following is a brief introduction to Western Australia's WHS laws.

The WHS Act provides a framework to keep people healthy and safe in all working environments.

This includes providing a healthy and safe environment for workers, as well as anyone else who may interact with the workplace, such as visitors, customers and the general public.

The primary duty of care for healthy and safe workplaces lies with the person conducting a business or undertaking, or PCBU for short.

A PCBU is the individual or organisation that is conducting a business or undertaking. This can be done alone or with others, for profit or not for profit.

PCBUs have an overarching duty of care to do what is 'reasonably practicable' to ensure health and safety in the workplace.

This duty of care placed on a PCBU means they have multiple work health and safety responsibilities. These responsibilities include providing and maintaining a healthy and safe environment and safe systems of work, ensuring workers are properly trained, acting upon incidents, reviewing control measures and anything else that can be reasonably done to ensure workplace health and safety.

In some cases, multiple PCBUs may hold a shared duty of care. A good example of this is in a shopping centre.

In this shared working environment, the centre management, store owners, centre security company and the contracted cleaning company all share a duty to keep workers and visitors healthy and safe.

This can also be true of a non-shared workplace, such as a heavy vehicle workshop, where the mechanics have been contracted to service trucks for a trucking company. This means the PCBUs of both the contracted mechanics and the trucking company share a duty to keep the workers and the public healthy and safe. This includes when the trucks are on the road.

Under the WHS Act, health and safety duties cannot be transferred.

Where there are shared obligations, the PCBUs have a shared duty to keep workers and others healthy and safe. They cannot opt out of this responsibility.

This means if there are multiple PCBUs who are working together, they must also consult, cooperate, and coordinate activities with all the other PCBUs with the same WHS duties, so far as is reasonably practicable.

Workers also have a duty of care for themselves and any others affected by their actions or omissions. They must comply, so far as they are reasonably able to, with any reasonable instructions given to them by the PCBU in relation to work health and safety.

Similar duties also apply to other people in the workplace, such as customers and visitors. They too, so far as is reasonably practicable, must look after their own health and safety, and comply with any reasonable instructions given by the PCBU in relation to health and safety in the workplace.

A volunteer organisation is a group of volunteers working together for a community purpose or purposes.

The WHS Act does not apply to a volunteer organisation that consists solely of volunteers.

However, if the organisation or any of the volunteers employs at least one person to carry out work for the organisation, then the WHS Act does apply.

This means the organisation will have WHS duties as a PCBU and owe duties of care to its workers and volunteers. Volunteers working together for a PCBU are considered workers under the WHS Act and have WHS duties.

The WHS Act also cover 'officers'; those holding roles in an organisation that allow them to greatly influence the management of the business or undertaking.

Officers have a 'due diligence' duty to ensure that the PCBU is compliant with its work health and safety obligations.

The laws provide a framework for PCBUs to ensure that the health and safety of workers and the general public is protected, so far as is reasonably practicable.

Under the WHS Act, it is a duty for all PCBUs to consult with those who are carrying out work for the business or undertaking who are likely to be directly affected by health and safety matters, so far as is reasonably practicable.

Workers must be given reasonable opportunities to express their views and raise issues about workplace health and safety, and have those views heard.

Workers can also choose to have an elected health and safety representative represent their work group on health and safety matters.

Workers can also cease or refuse to carry out a work task where they have a reasonable concern about a serious risk to their health and safety from a potential hazard.

This extends to a reasonable concern about a serious risk to the health and safety of any other person, such as a customer, at the workplace.

If they cease working for this reason, it is unlawful to discriminate against them.

There are also provisions against discriminatory, coercive or misleading conduct, to protect workers, prospective workers, those who perform health and safety related functions or activities, or those raise workplace health and safety issues.

In addition, the WHS Act defines 'health' as both psychological and physical health.

Therefore, PCBUs have a duty of care to ensure a healthy working environment for both physical and mental health. This means they need to consider and assess psychological health hazards in the same way as they would physical health hazards and risk factors.

This is a brief overview of some of the important aspects of Western Australia's Work Health and Safety Act.

There is a range of WHS guidance on our website, including other videos in this series, so you can learn more about how you can help to keep WA's workplaces healthy and safe.

For more information on work health and safety, visit the DMIRS website, at [www.dmirs.wa.gov.au/whs](http://www.dmirs.wa.gov.au/whs). You can also find us by searching for WorkSafeWA on Twitter, Facebook and LinkedIn.

Work health and safety is everybody's business, and we all have a role to play in keeping our workplaces healthy and safe.