



Officer's duties for Model Work Health & Safety Act

On 1 January 2012 Australia will see a significant landmark in health and safety management, with the introduction of harmonised occupational health and safety laws across each of Australia's states and territories, as explained by Jo Kitney.

Harmonised OHS legislation

After extensive consultation and negotiations at Federal and State Government levels across industry, organisations and stakeholders, a common legislative framework* has been agreed and each state and territory is preparing to adopt this on 1 January.

Officer's duties

The harmonised legislation - known as the Model Work Health & Safety (WHS) Act - still aims to stop anyone from being killed, injured or becoming ill because of a workplace and work being done. Depending on the current WHS legislation within each state or territory, this new legislation will be a case of 'business as usual' as well as introducing new or changed obligations.

A significant change within the new legislation is the increased obligations for officers and directors, the re-definition of the term 'officer' and the proactive duty of care required to meet obligations. This change is a deliberate drive to manage health and safety by 'leading from the top' and there are provisions within the new legislation for penalty and prosecution for failure to meet obligations for proactive management and in the event of a workplace incident. These obligations can hold the individual officer individually liable, as well as the business or undertaking.

Fulfilling officer's duties

Fulfilling officer's duties for health and safety at work involves taking proactive action to ensure obligations are continually being met. Strategies and actions to meet officer's duties could include:

- Knowing the hazards and risks and the legal duties for health and safety.
- Establishing the company's health and safety goals and objectives.
- Determining current management and status of health and safety.
- Mapping requirements to fulfil obligations and goals against current position.
- Identifying areas for action, laying down and resourcing a strategy and plan to fulfil these.

- Implementing the strategy and plan against required milestones.
- Regular monitoring, reporting and senior management review.

If we use James Reason's swiss cheese model of accident causation as an example, the arrangements and systems for management represent the 'cheese' - with the areas for action the 'holes'. Officers should be aware of the gaps and take proactive action to manage and close these, before they line up and incident, injury or ill health occurs.

For all actions taken, keeping the right records for the required length of time is critical - without which it is difficult to demonstrate due diligence and provide a defence as an officer and as an organisation.

Strategies and actions should also secure the best possible return from investment. Effective health and safety management can bring benefits beyond compliance and business decisions should optimise these, whilst also meeting obligations.

Governance and organisational risk

An example of benefit beyond compliance is the link with management of organisational risk and corporate or organisational governance. Health and safety sits firmly within each of these areas, as a subset and in its own right.

Each is reliant on diligent actions in the pursuit of goals and outcomes, each requiring active leadership and management, a positive culture and involvement of all - with each person playing their part, at whatever level and whatever role they hold.

Governance provides the framework for the way a company is directed, administered or controlled and sets out the rights, responsibilities and relationships of different participants in the business, including the board, managers, shareholders and other stakeholders. This ensures a company follows the relevant processes, policies, laws and institutional rules to

achieve its own objectives, legal compliance, accountability and control, risk management and the creation of value.

This framework paves the way for managing organisational risk and, subsequently, health and safety risk management. This framework, along with a personally held regard for health and safety, is needed for officers to meet their duties and obligations.

With health and safety sitting as a key component of organisational risk, the actions to meet these are in many respects similar to those for fulfilling officer's duties, though the framework and structure for managing health and safety, governance and organisational risk will vary depending on the size, complexity, type of organisation and the hazards and risks inherent within its operations.

Looking forward

With 1 January 2012 looming fast and, for the most part, no transition period from current health and safety legislation to the new, businesses should take the time to get ready for the new legislation. They should ensure they are aware of obligations within the new legislation, of how health and safety is currently managed, lay down a plan, allocate resource and take action. Decisions should also be made about who is an officer within their organisation, ensure these individuals understand their obligations, are given support and take the necessary actions to fulfil their role. **AMT**

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*Safe Work Australia

Visit www.safeworkaustralia.gov.au/Legislation/ModelWHSAct/Pages/ModelWHSAct.aspx for the current version of the WHS Act