



# WHS duties of the 'PCBU' and employer

*In this editorial, Jo Kitney puts the duties of the person conducting a business or undertaking (PCBU) or the employer under the spotlight. She explains the term PCBU, the purpose of the duties and looks at actions needed to meet obligations.*

Although workplace health and safety legislation is not yet harmonised across Australia, there are similarities in the role of the PCBU within the new Work Health and Safety legislation in Queensland, NSW, the ACT and Northern Territory and that of the employer in the states and territories of Australia that continue with their non-harmonised legislation. These roles have specific duties for managing health and safety at work.

For the purposes of WHS, a person conducts a business or undertaking whether they conduct the business or undertaking alone or with others and whether or not it is conducted for profit. The duties of the PCBU and employer are seen as 'primary duties', in that they lay a framework for managing health and safety at work to prevent accidents, ill health and injuries.

The duties provide the PCBU or employer with a list of health and safety obligations which, when combined with the size and type of the business, organisational structure, work activities, plant, equipment, hazards and risks, provide the information needed to put in place a WHS management system with the policies and procedures, training and resources needed for health and safety at work.

## Duties of the PCBU and employer

Although there are differences in the harmonised and non-harmonised WHS laws, for the obligations for the PCBU and employer, there is a common requirement to protect the health and safety of workers and others who may be affected by the work of the business. In the new legislation, the term "worker" includes contractors and volunteers as well as employees.

The duties of the PCBU and employer are to provide and maintain a safe working environment, safe plant, structures and equipment, safe systems of work and the safe use, handling and storage of plant, structures and substances, in addition to providing welfare facilities, information, training, instruction and supervision and to monitor the workplace to prevent illness or injury of workers. In some states and territories there is also the obligation to monitor workers' health, which is an important bridge between WHS and the early identification of ill health to prevent more significant and chronic conditions.

## Fulfilling duties within metal manufacturing

So how can the PCBU and employer within the metal manufacturing industry meet their duties, particularly with the varied and wide ranging hazards and risks found within the industry? Well, fulfilling these duties sits within a framework for health and safety that is common to many industries and businesses with additional inclusions that are specific to the work activities of the business.

*...laying a framework for managing health and safety at work to prevent accidents, ill health and injuries.*

This common framework provides the main system for managing health and safety, with a WHS Policy that demonstrates the business' commitment to health and safety and a range of supporting policies and procedures for matters such as consultation and representation for workers, hazard and risk management, training and information, and arrangements for managing emergencies, first aid and notifying incidents.

Within this WHS framework sits the management of hazards and risks from the work activities of the business. Hazards common to metal manufacturing include the use of fixed, mobile and hand held plant and equipment, welding, cutting, hazardous substances, movement of loads and manual handling. Further risks may include shift work, fatigue, alcohol and drugs, use of labour hire and contractors, forklifts and slips, trips and falls.

A cross-check between the duties of the PCBU and employer against the two elements of WHS management (ie. the 'WHS framework' and the management of specific hazards and risks) should give the assurance that duties are understood and met as well as highlight areas where further action is needed, either at a management or system level or at the 'coal face' for managing processes and operations.

The businesses WHS hazard and risk register is an essential document in identifying hazards and risks and in understanding what the law requires. From this, the business can decide on control measures and monitor the management of WHS. Decisions on control measures can be drawn from specific requirements laid down within legislation (such as managing plant and equipment) and codes of practice or using risk assessments to identify options for management. This is a key element in determining what is 'reasonably practicable' and documenting this will go a long way to ensuring that the duties of the PCBU and employer are understood and met.

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