



WHS Fact Sheet

WHS Duties for “Workers”

Defining “Workers”

With the introduction of the WHS Act 2011 (the Act), the definition of a worker has been broadened. Under the Act a person is a worker if they carry out work in any capacity for a Person Conducting a Business or Undertaking (PCBU), including work as:

- a) an employee, or
- b) a contractor or subcontractor, or
- c) an employee of a contractor or subcontractor, or
- d) an employee of a labour hire company who has been assigned to work in the person’s business or undertaking, or
- e) an outworker, or
- f) an apprentice or trainee, or
- g) a student gaining work experience, or
- h) a volunteer, or
- i) a person of a prescribed class.

WHS Duties of “Workers”

While at work, a worker must:

- a) take reasonable care for his or her own health and safety, and
- b) take reasonable care that his or her acts or omissions do not adversely affect the health and safety of other persons, and
- c) comply, so far as the worker is reasonably able, with any reasonable instruction that is given by the person conducting the business or undertaking to allow the person to comply with this Act, and
- d) co-operate with any reasonable policy or procedure of the person conducting the business or undertaking relating to health or safety at the workplace that has been notified to workers.

Penalties for Workers

The penalties for offences (relating to Officers) under the Act are divided into 3 categories.

Category	Maximum Penalty	Definition
1 – Reckless Conduct	\$300,000 or 5 years imprisonment or both	A person commits a Category 1 offence if: a) the person has a health and safety duty, and b) the person, without reasonable excuse, engages in conduct that exposes an individual to whom that duty is owed to a risk of death or serious injury or illness, and c) the person is reckless as to the risk to an individual of death or serious injury or illness.
2 – Failure to comply	\$150,000	A person commits a Category 2 offence if: a) the person has a health and safety duty, and b) the person fails to comply with that duty, and c) the failure exposes an individual to a risk of death or serious injury or illness.
3 – Failure to comply	\$50,000	A person commits a Category 3 offence if: a) the person has a health and safety duty, and b) the person fails to comply with that duty.

Where can I go for more information?

- The following websites provide detailed information about the new WHS Act and the changes in legislation.
<http://www.workcover.nsw.gov.au/>
<http://safeworkaustralia.gov.au/Pages/default.aspx>
- You can also contact WHS if you have would like further information.

Related WHS Fact Sheets

- WHS Duties for Officers
- WHS Duties for Workers
- WHS Consultation Methods