

Principles that apply to WHS duties



Overview

This factsheet gives an overview of the four key principles that apply to all WHS duties in the model WHS Act. Understanding these principles will assist you to interpret and apply your duties as a PCBU. See the other factsheets in this series for greater detail on each principle and the duty to consult, cooperate and coordinate with other duty holders.

As a person conducting a business or undertaking (PCBU) you have a duty under work health and safety (WHS) laws to ensure, so far as is reasonably practicable, the health and safety of workers engaged, and caused to be engaged by you, and others who may be at risk from work carried out by the business.

The term 'workers' includes employees, contractors, subcontractors, trainees and volunteers. You are also likely to have other duties such as ensuring the workplace you manage or control does not expose any person to health and safety risks.

4 key principles that apply to all WHS duties in the model WHS Act



1. WHS duties are not transferable.



2. A person can have more than one duty.



3. More than one person can have the same duty.



4. Management of risks.



1. WHS duties are not transferable

Your PCBU duties are not transferable. You cannot modify or contract out of your duties. If you attempt to modify or transfer your WHS duties to another person (such as a subcontractor) by way of a contract, that provision in the contract will be invalid.

However, you can enter into reasonable arrangements or agreements with other PCBUs you are working with to make sure everyone's duties (including yours) are met, while at the same time avoiding unnecessary duplication of effort. See the factsheet ['Principle 1: WHS duties cannot be contracted out or transferred'](#).



2. A person can have more than one duty

It is possible to be a multiple duty holder. For example, if you are self-employed or work as an individual contractor, you may be **both a worker** (who is owed work health and safety duties) **and a PCBU** (owing work health and safety duties to yourself and to others).

Self-employed people and individual contractors are usually both a PCBU and a worker. See the factsheet ['Principle 2: A person may have more than one duty'](#).



3. More than one person can have the same duty

You and another PCBU can have the same work health and safety duties relating to a particular work activity, or the environment in which the work is taking place. This means you are both responsible for addressing WHS risks.

Where you share duties with other PCBUs, you must:

- **meet your duty to the extent to which you have capacity to influence and control the matter**
- **consult, cooperate and coordinate with other duty holders.**

The PCBU with the most influence and control over a matter will be in the best position to manage the associated risks. See the factsheets ['Principle 3: more than one person can have the same duty'](#) and ['Duty to consult, cooperate and coordinate with other duty holders'](#).



4. Management of risks

As a PCBU you are required to **eliminate risks to health and safety so far as is reasonably practicable**. If elimination is not reasonably practicable, you must **minimise those risks so far as is reasonably practicable**.

Reasonably practicable means doing all that you reasonably can to keep people safe at work. See the factsheet ['Principle 4: Management of risks'](#).

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/ Principle 2: A person can have more than one duty



Self-employed persons can be both a worker and a PCBU

If you are a sole trader or individual contractor, you may be both a worker and a PCBU at the same time. The following table sets out relevant considerations regarding your WHS duties as a PCBU and worker.



Work health and safety (WHS) laws have four principles to help guide you as a person conducting a business or undertaking (PCBU) on how to apply your WHS duties:

1. [WHS duties are not transferable](#)
2. [A person can have more than one duty](#)
3. [More than one person can have the same duty](#)
4. [Management of risks.](#)

You are a PCBU:



- You are a PCBU if you conduct your own business.
- You are responsible for your own safety while at work in your own business (you are a worker in your own business).
- If you engage other people like subcontractors, trainees or apprentices, you owe a primary duty of care to those workers as well.
- You must consult, cooperate and coordinate, so far as is reasonably practicable, with other PCBUs to manage health and safety risks at work.

You are a worker:



- You are a worker in your own business if you carry out work in the business.
- You are also a worker of another PCBU if you are engaged by that person to carry out work for their business or undertaking.
- The other PCBU who engages you must ensure your health and safety while you are at work in their business or undertaking.
- As a worker you must also take reasonable care for your own health and safety and others while at work in the business or undertaking.

Example

A self-employed welder is contracted by a building company. Both the welder and building company are PCBUs. In addition, the self-employed welder is a worker of the building company.

In this instance, the self-employed welder is **both a PCBU and worker**.

As a worker, the self-employed welder is owed a duty by the building company (PCBU) who engaged them.

As a PCBU, the self-employed welder has a duty to ensure, so far as is reasonably practicable, their own health and safety (while at work in their own business) and the health and safety of others. The welder also owes PCBU duties to any workers (such as apprentices or subcontractors) they engage.

