

BULLETIN

Understanding Primary Duty of Care

This information bulletin provides a guide to the Primary Duty of Care referred to in section 19 of the *Work Health and Safety (National Uniform Legislation) Act 2011*.

Primary Duty of care

All persons conducting a business or undertaking (PCBU) have a primary duty of care to ensure so far as is reasonably practicable, the health and safety of workers and others.

A self-employed person owes him/herself the primary duty of care.

Without limiting this duty a Person conducting a business or undertaking (PCBU) must ensure that as far as reasonably practicable the following:

- a. the provision and maintenance of a work environment without risks to health and safety; and
- b. the provision and maintenance of safe plant and structures; and
- c. the provision and maintenance of safe systems of work; and
- d. the safe use, handling and storage of plant, structures and substances; and
- e. the provision of adequate facilities for the welfare at work of workers in carrying out work for the business or undertaking, including ensuring access to those facilities; and
- f. the provision of any information, training, instruction or supervision that is necessary to protect all persons from risks to their health and safety arising from work carried out as part of the conduct of the business or undertaking; and
- g. that the health of workers and the conditions at the workplace are monitored for the purpose of preventing illness or injury of workers arising from the conduct of the business or undertaking. .

A duty of care cannot be transferred to another person.

The health and safety duties imposed on a PCBU require the person to:

- Eliminate risks of health and safety, so far as is reasonably practicable; and
- If it is not reasonably practicable to eliminate risks to health and safety, to minimise those risks so far as reasonably practicable.

Persons may have more than one health and safety duty.

For Example:

More than one person conducting a business or undertaking (PCBU) may owe the same worker a Primary Duty of Care – such as a labour hire worker placed with a host employer. In this case the Primary Duty of Care is owed to the worker from the labour hire company and by the host employer.

PCBUs who have a duty in relation to the same matter are required to consult with each other and coordinate activities in relation to the matter. Proper and effective coordination of activities between duty holders can overcome concerns about duplication of effort or no effort being made.

Other duties may also be owed by the person conducting a business or undertaking (PCBU), depending on the activities they are engaged in. Such additional duties may include:

- duty of a PCBU involving the management and control of a workplace
- duty of a PCBU involving the management or control of fixtures, fittings or plant at workplaces
- duties of a PCBU that design plant, substances or structures;
- duties of a PCBU that manufacture plant, substances or structures;
- duties of a PCBU that imports plant, substances or structures
- duties of a PCBU that supplies plant, substances or structures
- duties of a PCBU that installs, constructs or commission plant or structures.

Responsibilities under Regulations

While the Act imposes the health and safety duties on a PCBU, the Regulations articulate how a PCBU is required to manage risks to health and safety. In addition to the general risk management approach required by the regulations to any risks to health and safety identified by the PCBU and identified in the Regulations, a PCBU is required to comply with any specific requirements set out in the Regulations as they relate to specific hazards.

Penalties

A range of penalties applies where the provisions of the Act are not complied with.

For further information please contact NT WorkSafe on 1800 019 115 or go to www.worksafe.nt.gov.au