

Legislative Requirements

Section 17: PCBU-person conducting a business or undertaking, whether alone or with others, and whether or not the business or undertaking is conducted for profit or gain.

Section 19: worker – means an individual who carries out work in any capacity for the PCBU including an employee, contractor or subcontractor, employee of a contractor or subcontractor, employee of a labour hire company, an outworker, an apprentice or a trainee, a person gaining work experience or on a work trial, volunteer worker, or a person of a prescribed class.

A volunteer worker is defined as anyone who carries out work for the PCBU with their knowledge and consent, in an ongoing and regular basis, and is integral to the business or undertaking. Excluded from volunteer worker is anyone participating in fund-raising activities, assisting with sports or recreation for an educational institute, sports club, or recreation club, or assisting with activities for an educational institute outside of the institution, and anyone providing care of another person in the volunteers home.

Section 20 – meaning of a workplace is a place where work is being carried out or is customarily carried out, and includes any place a worker goes, or is likely to be while at work. A workplace includes a vehicle, vessel, aircraft, ship or other mobile structure, and any waters and any installation on land, on the bed of any waters or floating on any waters.

Section 30: Management of risks. The duty imposed by the Act requires the person to eliminate risks to health and safety, so far as reasonably practicable and if it is not reasonably practicable to eliminate, to minimise those risks so far as is reasonably practicable.

Section 22: reasonably practicable means in relation to a PCBU means that which is, or was, at a particular time reasonably able to be done in relation to ensuring H&S, taking into account:

- The likelihood of the hazard or risk concerned occurring
- The degree of harm that might result
- What the person concerned knows, or ought reasonably to know about the hazard or risk, and the ways of eliminating or minimising the risk.
- The availability and suitability of ways to eliminate or minimise the risk.
- After assessing the extent of the risk and available ways of eliminating or minimising the risk, the cost associated with the available ways/methods, including whether the cost is grossly disproportionate to the risk.

Section 31: duties are not transferable to another person.

Section 32: a person may have more than one duty.

Section 33: More than 1 person may have the same duty. When this occurs (such as on a construction site with multiple PCBUs), each duty holder has to comply with the standard required in the Act. Where more than 1 person has a duty for the same matter, each person retains responsibility for their duty and

must discharge that duty to the extent to which that person has the ability to influence or control the matter.

Section 34: PCBU must consult with another PCBU with the same duty. If more than 1 PCBU has a duty in relation to the same matter, each PCBU must, so far as is reasonably practicable, consult, co-operate with and co-ordinate activities with all other PCBUs who have a duty in the same matter.

Section 36: Primary duty of care, the PCBU must ensure, so far as is reasonably practicable, the H&S of workers who work for the PCBU, while at work, and workers whose activities in carrying out the work are influenced or directed by the PCBU while the work is being carried out. A PCBU must ensure, so far as reasonably practicable, that the H&S of other persons is not at risk from the work being carried out, and must:

- Provide and maintain a safe work environment
- Provide and maintain safe plant and structures
- Provide and maintain safe systems of work
- The safe use, handling and storage of plant, substances, and structures.