



## INFORMATION SHEET

# PCBU responsibilities

### What is a business or undertaking?

Whether an organisation is a business or undertaking will depend on the circumstances of each case. However, the following definitions may assist:

- businesses usually have the purpose of making a profit and have a degree of organisation, system and continuity.
- undertakings may have elements of organisation, systems and possibly continuity, but are usually not commercial in nature or intended to make a profit.

### What is the definition of a person conducting a business or undertaking (PCBU)?

Under the work health and safety (WHS) laws a person can be an individual such as a sole trader or self-employed person, or an entity such as a body corporate (company), unincorporated body, association or a partnership. Individuals who are in a partnership conducting a business will individually and collectively be a PCBU.

A person conducts a business or undertaking whether it is done alone or with others, and whether or not for profit or gain.

### Factors to determine if there is a business or undertaking being conducted

- Elements of organisation, system and continuity associated with the performance of work
- Elements of control over the place where work is to be performed, the manner in which work is carried out, or the worker performing the work.

### Defining work

As work is not defined in the WHS Act, it has its ordinary meaning. Work is an activity involving mental or physical effort done in order to achieve a purpose or result.

An activity that is domestic, recreational or social in nature may also be considered work but these are unlikely to fall under PCBU duties if the activities form part of running a household or a person's daily life rather than occurring in relation to a workplace.

## Duty of care

A duty of care is a legal obligation to take reasonable steps to ensure the health and safety of other people.

### Workers

Workers are not just paid employees, but include contractors, sub-contractors, labour hire workers, apprentices, volunteers and those on work experience. A PCBU can also be a worker.

A PCBU owes a primary duty of care to workers while they are at the business or undertaking, if it:

- engages or causes the engagement of workers to carry out work
- directs or influences workers carrying out work.

### Others

A PCBU also has a primary duty of care to ensure, so far as is reasonably practicable, that the health and safety of other people is not put at risk from work carried out as part of the conduct of the business or undertaking, such as visitors or the public.

A duty also exists where one PCBU provides a WHS service to another PCBU to assist them to meet their obligations under the WHS Act. A WHS service could include:

- recommendations or advice
- testing or analysis
- reports, plans, programs, strategies or guidelines
- training or education.

The WHS Act imposes further duties on certain PCBUs who are in control of workplaces or are 'upstream' duty holders such as designers, manufacturers and importers of plant and substances.

These duties may apply to a PCBU if it:

- manages or controls workplaces, or fixtures, fittings or plant at workplaces
- designs, manufactures, imports or supplies plant, substances or structures used in work
- installs, constructs or commissions plant or structures used in work.

## In summary

Under the WHS Act PCBUs must ensure the health and safety of workers, so far as is reasonably practicable, by eliminating risks to health and safety. If elimination of a risk is not reasonably practicable, risks must be minimised so far as is reasonably practicable.

For more information see the [Interpretive guideline: The meaning of 'person conducting a business or undertaking' \(PCBU\)](#).

This is a short guide. Duty holders should refer to the *Work Health and Safety Act 2020* and associated regulations for a full understanding of duties and responsibilities.