Overview

• What are the changes?
• What does it mean to you?
Commencement

1 January 2012
Work Health and Safety Act 2011
Regulations
Codes of practice
Key changes for the ACT

• Some new terminology. OHS → WHS, WSR → HSR

• Applies to all

• New obligations for ‘Officers’
Key changes for the ACT

• Removal of ‘statutory’ right for private prosecutions by unions or employer groups [note common law right still exists]

• Increased penalties
Summary of obligations

• Eliminate or minimise hazards and risks
• Consult
• Comply
• Report
Duty Holders

‘person in control of a business or undertaking’

➤ Includes sole traders, partnerships, corporation, designers, importers, suppliers, installers, etc.
Duty Holders

Officers

“A person who makes, or participates in making, decisions that affect the whole, or a substantial part, of the business or undertaking”
Duty Holders

Worker

- Includes independent contractors, apprentices, outworkers, work experience, volunteers etc.
Duty Holders

Others

➤ Includes clients, customers, visitors
Health and Safety Duties

• A person can have more than one duty
• More than one person can have the same duty.
• Cannot be transferred
PCBU

Health & Safety of workers and others

Minimise risk
Likelihood

Reasonably practicable

What you know

Seriousness

Strategies
PCBU – other safety duties

• Provide and maintain a safe workplace and environment
• Provide and maintain safe plant, structures and systems of work
• Provide appropriate, information, instruction, training and/or supervision
• Monitor work safety
PCBU – other safety duties

• Ensure safe use, handling, storage and transport
• Ensure workers are qualified
• Provide adequate facilities
• Keep information and records
• Consult people at the workplace on work safety.
Officer Duties

“an officer of the person conducting the business or undertaking must exercise due diligence to ensure that the person conducting the business or undertaking complies with the duty or obligation”
Officers

- Due Diligence
- Ensure PCBU complies
Duty of officers

- Due diligence
  - Nature of operations and associated risks and hazards
  - Resources and processes
  - Knowledge of WHS matters
  - Timely response to incidents
  - Process for legal compliance
Workers & Others

- Care
- Comply
- Cooperate
Right to refuse work

A worker has the right to cease or refuse to do work.

• notify PCBU
• can be given alternative work
# Duties of care

<table>
<thead>
<tr>
<th>Nature of Activity</th>
<th>Duties Associated with the Activity</th>
<th>Relevant Standard</th>
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| Operation of the business | **Primary duty of care**  
Persons conducting a business or specific classes of duty holders | Reasonably practicable |
| Organisational decision making and governance | **Officers’ duty of care** | Due diligence |
| Work activities (including supervision) | **Workers’ duty of care** | Reasonable care |
| Others e.g. visitors | **Duty of care of others** | Reasonable care |
‘Horizontal Engagement’

If more than one person has a duty in respect of the same matter, each person with the duty must, so far as is reasonably practicable, consult, co-operate and co-ordinate activities with all other persons who share that responsibility.
Consultation Terminology

• Health and Safety Reps
• Health and Safety Committees
• Work Groups
Consultation

• Sharing information with all workers, not just employees
• Opportunity to respond and contribute
• Broader consultation requirements
When is consultation required?

- identifying hazards and assessing risks
- making decisions about ways to eliminate or minimise those risks
When is consultation required?

• making decisions about the adequacy of facilities for the welfare of workers

• proposing changes

• making decisions about procedures
How to consult

Work group

• number and composition of work groups

• number of HSR’s and deputy HSR’s

• workplaces to which the work groups apply.
How to consult

Health and Safety Representatives

• Represent workers
• Investigate safety issues
• Three year term
How to consult

Committees

• must meet at least once every three months
How to consult

Informal arrangements
Discriminatory conduct

WHS Act prohibits discrimination against workers on health and safety grounds
Prohibition of discriminatory conduct

• dismiss a worker
• terminate a contract for services
• alter the position of a worker to the worker's detriment
WHS entry permits

• Union official
• Apply
• Training
• Three years
Right of entry

• Notify PCBU

• Prior notice NOT required to investigate suspected breach

• 24 hour notice required to consult with workers and inspect records and documents
Revoking a permit

WorkSafe ACT can impose conditions, suspend or revoke a permit

• breaches permit conditions
• engages in improper conduct
Incident Notification

PCBU must report ‘notifiable incidents’ to WorkSafe ACT
What is a notifiable incident?

• the death of a person; or
• a serious injury or illness of a person; or
• a dangerous incident.
Serious injury or illness

An injury or illness that reasonably could be considered to warrant:

• medical treatment within 48 hours of exposure to a substance
• immediate treatment as an in-patient in a hospital
• immediate treatment
Serious injury or illness

Includes serious head injuries, burns, spinal injury, eye injury, amputation and loss of bodily function
Dangerous Incident

Exposes a worker or any other person to a serious risk to their health or safety emanating from an immediate or imminent exposure to a number of risks.
Dangerous Incident

Includes an uncontrolled escape, spillage or leakage of a substance, an electric shock, a fall from a height, the collapse of a structure, explosion or fire.
Duty to notify of notifiable incidents

- immediately
- in writing within 48 hours
- PCBU must keep a record of each notifiable incident for at least 5 years
Duty to preserve incident sites

Ensure as far as is reasonably practicable that the site is not disturbed

Maximum penalty:
In the case of an individual—$10 000
In the case of a body corporate—$50 000
Records of notifiable incidents

PCBU must keep a record of each notifiable incident for at least 5 years

Maximum penalty:
In the case of an individual—$5000
In the case of a body corporate—$25 000
How to give notice

Phone - 62073000
Serious Event Report Form, Worksafe ACT
GPO Box 158, Canberra City ACT, 2601
Fax - 62050336
Email – worksafe@act.gov.au
Failure to report

Maximum penalty:

In the case of an individual—$10 000
In the case of a body corporate—$50 000
Penalties

• Category 1 – Reckless conduct
• Category 2 – Failure to comply
• Category 3 – Failure to comply
Penalties

Categories based on degree of ‘culpability’ and risk/degree of harm

**Category 1**
- Corporation: $3m
- Individual as a PCBU or an officer: $600k / 5 years jail
- Individual e.g. worker: $300k / 5 years jail

**Category 2**
- Corporation: $1.5m
- Individual as a PCBU or an officer: $300k
- Individual e.g. worker: $150k

**Category 3**
- Corporation: $500k
- Individual as a PCBU or an officer: $100k
- Individual e.g. worker: $50k
Work Health and Safety Regulation 2012

Part 1: Preliminary

Part 2: Representation and participation
• HSR training
• Default procedures for issue resolution
• WHS entry permits
Work Health and Safety Regulation 2012

Part 3: General Workplace Management
• Work environment
• Facilities
• Remote and isolated work
• First aid
• Emergency plans
• PPE
Work Health and Safety Regulation 2012

Part 4: Hazardous Work

- Noise
- Hazardous manual tasks
- Confined spaces
- Falls
Work Health and Safety Regulation 2012

Part 4: Hazardous Work

• High risk work
  -licensing, accreditation of assessor
  -Electricity
  -Abrasive blasting
  - Underwater diving work
Work Health and Safety Regulation 2012

Part 5: Plant & Structures

• Specific requirements for powered mobile plant, industrial lift trucks, lifts, scaffolds, pressure equipment, industrial robots, lasers, amusement devices.
• Plant design and item registration
Work Health and Safety Regulation 2012

Part 6: Construction
• Safe work method statements for ‘high risk work
• Co-ordination duties for principal contractors
• Notification of high risk excavation work
• Induction training
Work Health and Safety Regulation 2012

Parts 7, 8, 9

Dangerous Substances Act 2004 and associated Regulations pending a review in 2012
Work Health and Safety Regulation 2012

Part 10: Mines

Part 11: General
• Review of decisions
• Exemptions
• Proposed penalties
Codes of Practice

• How to Manage Health and Safety Risks
• How to Consult on Work Health and Safety
• Managing the Work Environment and Facilities
• Facilities for Construction Sites
Codes of Practice

• Managing Noise and Preventing Hearing Loss at Work
• Hazardous Manual Tasks
• Confined Spaces
• How to Prevent Falls at Workplaces
Codes of Practice

• How to Manage and Control Asbestos in the Workplace
• How to Safely Remove Asbestos
• Labeling of Workplace Hazardous Chemicals
• Preparation of Safety Data Sheets for Hazardous Chemicals
2\textsuperscript{nd} Stage Codes of Practice

- Construction hazards - Precast, tilt-up and concrete elements, Excavation, Demolition
- Traffic management
- Fatigue
- First aid
- Bullying
2nd Stage Codes of Practice

- Safe design – plant, structures
- Diving
- Abrasive blasting
- Forestry
- Welding
- Spray painting
What does WorkSafe do?

WorkSafe ACT are committed to the prevention of workplace injuries, illness and death.
Summary of Obligations

• Manage Risks
• Consult
• Report
• Comply
Questions?

For more information go to

www.worksafe.act.gov.au