
Contents

Before you begin	vii
Topic 1: Determine the legal framework for WHS in the workplace	1
1A Identify and access current WHS legislation and related documentation	2
1B Apply knowledge of the relationship between WHS Acts, regulations and codes of practice	16
1C Identify duty holders	20
1D Identify legal obligations for consulting and training workers and health and safety representatives	24
1E Identify consequences of noncompliance with WHS legislation, policies and procedures	32
Summary	43
Learning checkpoint 1: Determine the legal framework for WHS in the workplace	44
Topic 2: Contribute to activity that reflects WHS legislative requirements	49
2A Contribute to monitoring legislative compliance	50
Topic 3: Keep up-to-date with legislation and relevant publications	89
3A Use relevant sources to keep up-to-date with legislation and publications	90

Aims of the WHS Act according to Safe Work Australia's Guide to the Model WHS Act:

- Protect the health and safety of workers and other people by eliminating or minimising risks arising from work or workplaces.
- Ensure fair and effective representation, consultation and cooperation to address and resolve health and safety issues in the workplace.
- Encourage unions and employer organisations to take a constructive role in improving WHS practices.
- Assist businesses and workers to achieve a healthier and safer working environment.
- Promote information, education and training on WHS.
- Provide effective compliance and enforcement measures.
- Deliver continuous improvement and progressively higher standards of WHS.

Regulations

WHS regulations supplement the WHS Act, and the Acts of those states yet to harmonise, by providing more detailed information about WHS obligations and the duties that apply in relation to particular hazards. They specify how some duties under the WHS Act must be met and the procedural or administrative processes that must be in place.

A wide range of matters are covered by the regulations, including:

- representation and participation
- managing risks to health and safety and general workplace management
- hazardous work involving noise, hazardous manual tasks, confined spaces, falls, demolition work, electrical safety, licensing of high-risk work
- accreditation of assessors of competency
- plant and structures
- construction work
- hazardous chemicals
- asbestos
- major hazard facilities
- mines.



Codes of practice

Codes of practice, sometimes referred to as compliance codes, provide practical guidance on how to meet the standards contained in WHS Acts and regulations.

Codes of practice are generally developed through consultation with representatives from industry, workers and employers, special interest groups and government agencies. They provide guidance on a range of matters, including duty of care, hazard identification, risk assessment processes and risk control.

- equal employment opportunity and anti-discrimination law
- industrial relations law
- privacy laws.

Dangerous goods

State and territory Acts and regulations make it an offence to fail to take all reasonably practicable measures to minimise the risk to people, property and the environment when handling, transporting, storing, treating and disposing of dangerous goods. There are strict penalties for failing to comply. Legislation requires those who store or use dangerous goods to develop risk management strategies.

Environmental protection

Care of the environment has become an increasingly important aspect of an organisation's responsibilities. The *Environment Protection and Biodiversity Conservation Act 1999* (Cth) provides the legal framework to protect and manage Australia's built and natural environment, although the control of the environment is left to each state and territory through individual environmental protection Acts.

You need to be aware of your state or territory's environmental Acts and regulations and the role and powers of the regulator. There are laws relating to the management and transportation of hazardous waste, noise, pollution, waste products and water. For example, relevant state and territory's conservation and land management regulations impose a penalty for discharging or depositing waste on crown land managed for conservation.

Equal employment opportunity and anti-discrimination law

In Australia, national, state and territory laws cover equal employment opportunity and anti-discrimination in the workplace. PCBU's have an obligation under their duty of care to assess work tasks to develop safe systems of work and provide a workplace free from discrimination. For example, discriminating against pregnant women in employment is unlawful. PCBU's must comply with these laws; for example, by undertaking risk assessments to identify work hazards to pregnant and breastfeeding women and making modifications to minimise those risks.



Laws also address issues related to people with disabilities and those with learning and language difficulties. For example, employers are required to provide safe and easy access to their building or site for everyone, regardless of their physical abilities. Similarly, instructions for responding to emergencies must be clearly displayed and presented in such a way that they can be understood by all workers.

Roles and responsibilities

Roles and responsibilities of key positions such as the officers, managers and supervisors with specific accountability for implementing health and safety practices and procedures.

Function

The function of the health and safety committee and its commitment to consultation and cooperation between management and workers.

Review process

The review process for assessing the policy's effectiveness, stating a commitment to regularly monitoring and reviewing the policy to ensure health and safety in the workplace.

WHS policies: policy areas

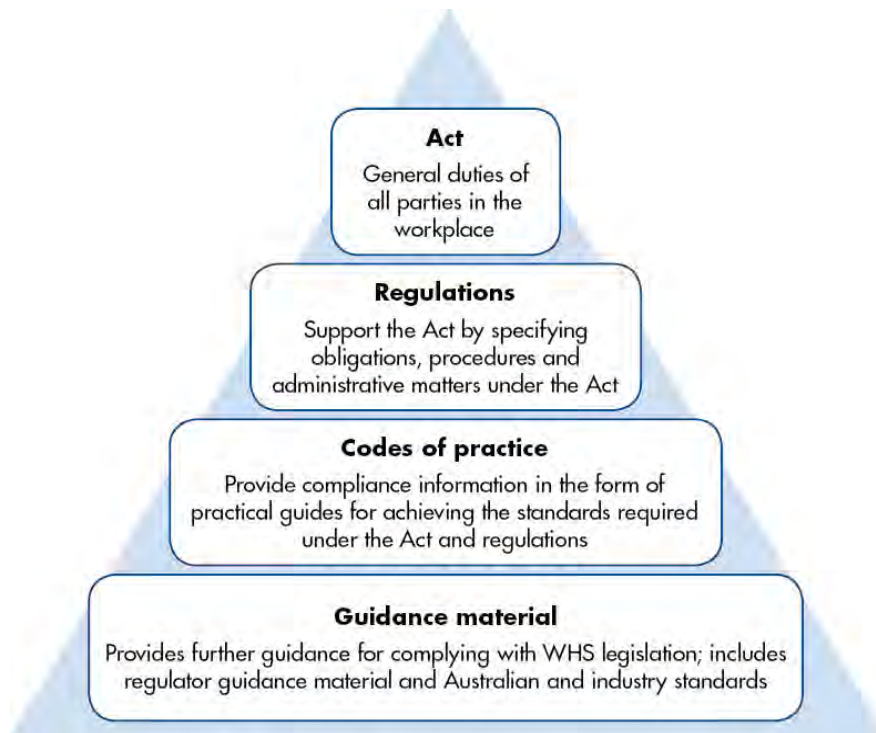
Workers should be consulted and actively encouraged to participate when developing, reviewing and evaluating policies to ensure they are relevant and practical.

Typical policy areas include:

- hazard identification and management
- incident reporting and investigation
- emergency planning and response
- bullying and harassment
- environmental management
- visitors and contractors
- induction, training and supervision
- consultation and participation
- alcohol, drugs and smoking
- manual handling
- mobile phone use.

Example: relationship diagram between the WHS Acts, regulations, codes of practice and guidance material

The following diagram provides an overview of the relationship between the WHS Acts, regulations, codes of practice and guidance material.



Identify WHS legislative requirements in the workplace

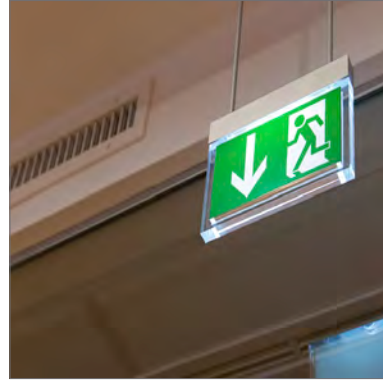
Once you understand the full extent of the documents that set out legal WHS requirements in the workplace and their interrelationships, you can more easily determine the particular WHS obligations that apply to your workplace.

The range of requirements that need to be addressed include:

- the duties and responsibilities of the PCBU and their officers and workers
- the powers and functions of health and safety committees and health and safety representatives
- hazard and risk identification
- strategies to minimise or eliminate risks and hazards
- strategies to maintain a safe and healthy workplace
- procedures to address staff illness and workers compensation
- record keeping.

To demonstrate due diligence, officers must take reasonable steps to:

- keep their knowledge of WHS up-to-date
- understand how the business operates and the workplace's hazards and risks
- have processes in place for receiving and responding to information in a reasonable time frame
- allocate appropriate resources to eliminate or minimise risk
- put in place processes for monitoring that the business is complying with WHS.



Workers

A worker is any individual who carries out work for a PCBU. This includes employees, independent contractors, outworkers (home-based workers), apprentices, work experience students, trainees and volunteers who work in an employment-like setting. Below is the list of responsibilities that come under a worker's duty of care.

A worker's duty of care involves:

- taking reasonable care of their own safety
- cooperating with any reasonable policy or procedure they have been notified of that relates to WHS
- complying with any reasonable instruction given by the PCBU
- taking reasonable care to make sure their conduct does adversely affect the safety of others.



Other people at a workplace

Other people at a workplace include:

- visitors
- customers
- a WHS inspector on a visit
- people walking past a construction site.

Like workers, these other people must take reasonable care for their own health and safety, not adversely affect the health and safety of others, and comply with any reasonable instruction given by a PCBU.

Discuss with others

Discuss with workers any new hazards and possible safety measures, such as identifying the hazards associated with the proposed purchase of a piece of equipment and deciding the best way to control the risk.

Assist

Assist in conducting 'walk-through' safety inspections.

Seek feedback

Ask workers for feedback and input.

Communicate

Use sound communication and interpersonal skills to contribute to meetings by:

- listening to other team members
- encouraging others to express ideas and opinions
- encouraging other team members when they contribute a good idea or raise an important issue.

WHS consultation information

There are a number of places where you can do research on WHS.

For further information on WHS consultation, cooperation and coordination, refer to Safe Work Australia's Model Code of Practice – Work Health and Safety Consultation, Cooperation and Coordination at: www.safeworkaustralia.gov.au/sites/swa/about/publications/pages/consultation-cooperation-coordination-cop.

Example: run safety meetings effectively

The following example provides some tips given by an experienced HSR for running safety meetings.

- Choose a topic that needs a safety review, such as a recent health and safety problem, or discuss a recent accident or incident.
- Encourage workers to contribute to a meeting by discussing a safety topic of their choice.

continued ...

1E

Identify consequences of noncompliance with WHS legislation, policies and procedures

It is important for your safety and the safety of others that you comply with all WHS Acts, regulations, codes of practice, standards and WHS policies, procedures, processes and systems. This section examines the common areas of noncompliance and the potential consequences.

Consequences of noncompliance

Noncompliance can:

- result in injury or death
- cost a company money through fines and lost production time
- result in the prosecution or imprisonment of officers
- damage a company's reputation.

Injury or death

Workplace accidents can have an enormous impact on both the physical and mental health of injured workers. Depression, post-traumatic stress disorders and substance abuse are possible outcomes of being injured at work. Sadly, many family relationships also suffer with marriages and parental relationships breaking down.

Safe Work Australia, in its publication Key Work Health and Safety Statistics, Australia 2012, highlights the following information.

Highlights from Key Work Health and Safety Statistics, Australia 2012

In 2008–09, there were 133,485 claims for serious work-related injuries or illnesses. This is an incidence rate of 13.5 serious claims per 1000 employees.

Male employees experienced nearly twice the rate of serious injury or disease compared with female employees.

Incidence rates of serious workers compensation claims increase with employee age.

The highest incidence rates were recorded by labourers and related workers: over double the rate for all occupations.

The transport and storage, manufacturing, and agriculture, forestry and fishing industries recorded highest incidence rates – nearly twice the average incidence rate.

Inadequate systems of information, instruction, training or supervision

As previously mentioned, PCBUs have a legal obligation and duty of care to provide appropriate information, instruction, training and supervision to workers so they have the skills, knowledge and experience to perform their work in a way that is safe and without undue risks to health.

An organisation's policies and procedures should include avenues for consultation, such as HSCs, WHS meetings or surveys. There should be an induction program for all new workers that includes WHS training, as well as refresher information for all personnel when laws or situations in the workplace change. Training should always be conducted by qualified people. Follow-up should also take place to ensure workers understand and are complying with the requirements.



Plant, equipment or substances not maintained, or used or stored in unsafe conditions

Employers have a legal obligation and duty of care to ensure adequate risk assessments are carried out on machinery and any associated system of work, and to provide and maintain plant and systems of work that are, so far as reasonably practicable, safe and without risks to health.

If equipment and machinery are not regularly maintained or stored correctly, they may pose a danger to users. Organisations should have comprehensive maintenance schedules in place. If a piece of machinery is identified as unsafe, a temporary notice should be placed on it that can be clearly understood and followed by all workers.

One of the most common causes of workplace injury is defective and/or poorly maintained equipment or machinery. Instructions for storing equipment correctly should also be part of the training process.

Poor consultation practices

Both WHS legislation and regulations require PCBUs to consult with workers about any matters that may affect their health and safety, including consulting with HSCs and HSRs.

Consulting workers on WHS issues is more likely to lead to a cooperative approach to health and safety processes and risk control measures. Therefore, as well as being a legal responsibility, consultation is also sound business practice.

Summary

1. The WHS legislative framework:
 - provides guidance to employers and their representatives to help them ensure they are complying with legislative requirements
 - gives powers to each state and territory regulator to inspect workplaces and investigate incidents, and where such an inspection or investigation reveals evidence of a breach of the relevant WHS Act, the regulator will determine what action should occur.
2. Each state and territory legislative and compliance framework is made up of the same elements and each has similar intentions:
 - WHS Acts set out the key principles, duties, obligations and rights in relation to WHS.
 - Regulations supplement the WHS Act and provide more detailed information about the duties that apply in relation to particular hazards, procedures and WHS obligations.
 - Codes of practice provide practical guidance to duty holders on complying with a duty under the relevant Act or regulation.
 - Guidance notes and alerts offer valuable guidance to people working in particular industries and occupations, and assist duty holders to understand what is reasonable and practicable and meet the requirements set out in the relevant WHS Act.
3. It is important to stay up-to-date with current WHS legislation, codes, standards and procedures.
4. WHS Acts impose a strict duty of care on PCBU's, as well as their representatives and workers to ensure the health and safety of all workers and others within the workplace.
5. PCBU's have legal obligations to provide WHS systems, training and consultation opportunities.
6. PCBU's are legally required to comply with their applicable state, territory or Commonwealth legislation. Noncompliance may cause injury or harm and can result in legal and financial penalties.

Informal inspections

Inspections may be conducted informally by walking through the workplace unannounced, checking for obvious issues, such as:

- workers not wearing PPE
- poor housekeeping
- slip, trip and fall hazards
- machine guards not in place or not working properly.

Formal inspections

Formal inspections may be conducted where you use checklists to identify hazards and risks. These may include a:

- manual-handling risk assessment checklist
- chemical audit checklist
- housekeeping checklist
- hazard checklist.

Workplace audits

Another form of inspection is the safety audit, which is conducted on a regular basis to determine if your organisation's WHS management system is operating as expected.

The number of times a workplace audit is carried out depends on the nature of the hazards and levels of risk, with high-risk areas being audited more frequently than low-risk areas.

On a broad scale, audits may look at items such as hazard and risk management, consultation and training to see whether the systems in place are working effectively to provide a safe and healthy workplace with minimal risks of injury and harm.

Several WHS authorities have developed audit tools and checklists that may help you to evaluate the effectiveness of your organisation's health and safety management system. Below are some examples.

Audit tools and checklists from WHS authorities**WorkSafe Victoria – SafetyMAP (Safety Management Achievement Program)**

Provides a set of audit criteria against which current performance can be measured.

WorkSafe Victoria – Officewise: a guide to health and safety in the office

Includes a series of checklists covering workstations, psychological issues, environmental factors, equipment and tools.

2B

Contribute to ensuring legislative compliance

An effective WHS management system ensures sound processes and procedures are in place for identifying hazards and assessing their risks. The necessary steps can then be taken to eliminate or control the identified risks.

Employing a health and safety specialist does not reduce the responsibilities of persons conducting a business or undertaking (PCBUs), their officers, managers or supervisors, or the primary responsibility of every individual to comply with WHS laws, regulations and standards. It remains everyone's responsibility to contribute to achieving a safe workplace.

The main role of anyone with specific WHS responsibilities is to:

- make sure all workers are following WHS procedures
- identify where unsafe practices may be occurring
- handle WHS issues quickly and efficiently.

What to check

All workers need to be aware of and report hazards in the workplace. Specific duties for ensuring personal safety may include checking that a range of safety procedures are being followed.

You can use the following as the basis for a checklist:

- Workers are aware of organisational risks and hazards.
- Workers know the safety procedures they are expected to follow and where to access information.
- All work areas are kept clean and free of slip, trip and fall hazards.
- Equipment is always checked before being operated.
- A safety guard is always in place and checked before equipment is operated.
- Loads are lifted correctly.
- PPE is worn when needed.
- Chemicals are handled correctly.
- Spills are cleaned up immediately.
- WHS concerns and incidents are promptly reported and dealt with.
- Workers take adequate rest or exercise breaks, especially when engaged in repetitive activities, handling heavy loads or constant computer work.
- Maintenance schedules are in place and carried out for all machinery and equipment.
- Chemicals and equipment are regularly reviewed to work towards eliminating the hazards exposed to workers.

Reports

To meet legislative requirements, you may be asked to write reports for management that contain the details of near misses, incidents and injuries. Make sure you clearly describe:

- the incident or event
- what might have caused the incident/event; for example, chemical fumes from a spill that caused a person to become unconscious
- any injuries sustained, including the location of such injuries; for example, the worker received a cut to the back of her head when she fell to the concrete floor
- any follow-up investigation and actions taken to prevent anybody being further exposed to the hazard and to eliminate or reduce the risk of the incident recurring; for example, stopping people from using the chemical until the investigation is completed.

Inspection reports

A workplace inspection report usually summarises the results of an inspection carried out with the help of a checklist. Several WHS authorities provide practical information that may help you evaluate the effectiveness of your health and safety management system, and what you should look for when conducting workplace inspections (both formal and informal). For example, WorkSafe WA's Checklist for inspecting the workplace can be downloaded from its website. The guide focuses on hazards that cause the highest rate of injury or death in Western Australian workplaces each year. The following areas are listed:

- Chemicals and harmful substances
- Electricity
- Health: manual tasks, slips and trips, violence, aggression and bullying
- Human factors: evacuation, new and young workers, work experience and transient workers
- Machinery and plant
- Noise
- Work practices: confined spaces, working at heights, working alone



HSRs and union officials with a WHS entry permit have some limitations on their powers to inspect a workplace. Inspectors who are representatives of the regulator, on the other hand, have unlimited powers to access any part of the workplace at any time to inspect for breaches of the Act.

Contribute to regular WHS inspections

Organisations should conduct regular health and safety inspections as part of their strategy for preventing workplace accidents and monitoring safety performance. These inspections usually involve a supervisor and the HSR, or HSC members who have undertaken training in hazard identification and risk management. Input should also be sought from workers who understand the work activities and are working in the area being inspected. How often these WHS inspections are conducted will depend on the industry and individual workplace.

To conduct an inspection, a checklist can be used to identify common hazards and risks. Examples of these industry-specific checklists can be accessed on the websites of regulators. Once the inspection is completed, an action plan can be developed to address and prioritise the identified hazards and risks. The results of the inspection and the action plan should then be communicated to everyone in the workplace.

Contribute to a WHS audit

The purpose of a WHS audit is to see if systems or processes are being followed. For an audit to take place, there must be some criteria on which to base the assessment. This can be in the form of a checklist of WHS procedures and systems.

An audit may be conducted by workers, HSRs, internal health and safety specialists or external WHS service providers. They may be conducted in teams or by individuals.

Your job may be to collect data from a recently conducted audit or inspection and analyse the results to identify compliance, noncompliance and trends. You may be asked to compare past audits to check whether improvements have been made in previously identified areas of noncompliance.

For some highly hazardous industries, such as the petrochemical industry, audits are a regulatory requirement. These audits are conducted by WHS experts with extensive industry-specific technical and legal knowledge.

In some states, regulators have developed audit tools to help businesses:

- evaluate and improve the performance of their current health and safety systems
- benchmark their health and safety performance against established criteria
- gain recognition for the standards achieved.

7

Raise the profile of WHS to ensure all staff are aware of WHS legislation by having regular WHS meetings or competitions between departments to reach compliance.

Report compliance breaches

It is the legal obligation of a person who witnesses a WHS compliance breach, workplace hazard or unsafe situation to report it to the relevant person or authority. Procedures should be in place to ensure all staff know who to report a breach to, and what supporting documentation is required.

In most cases, you will need to report to the senior person in charge of WHS in your organisation. Be prepared with a concise account of the situation, including what occurred, where, the date, the personnel involved, safety outcomes and the follow-up action required.

All breaches should be addressed promptly. The employer, in consultation with the relevant worker, must attempt to resolve WHS issues in accordance with agreed workplace procedures or the issue resolution process detailed in the WHS Act or regulations.

If the matter is not resolved within a reasonable time, either party may request that an inspector from their state or territory's regulator visit the workplace and assist in resolving the matter.



Carry out roles or functions specified in legislation or workplace policies and procedures

Your state or territory safety laws detail the obligations of employers to keep records as part of their WHS management system. Be aware of the procedures you need to follow and always write in clear, plain language so no-one can misunderstand what you are saying.

SafeWork SA**www.safework.sa.gov.au**

SafeWork SA has a help centre that you can call for advice or to make complaints regarding a suspected breach of the law. It also offers an industry-based, self-paced (online) WHS improvement program, The SafeWork Management Program, which is a step-by-step guide to managing safety in your workplace based on the requirements of AS/NZS 4804.

WorkSafe Tasmania**worksafe.tas.gov.au**

WorkSafe Tasmania has a help line you can call for advice on legislation or information on safety issues, along with numerous online resources to help you improve the standards of safety in your workplace.

WorkSafe Victoria**www.worksafe.vic.gov.au**

Visit the WorkSafe Victoria for:

- general WHS inquiries
- advice to workers about their rights, including what to do if they are injured
- employers' advice on WorkSafe premiums and WorkSafe policy issues
- return-to-work and rehabilitation rights and obligations
- assistance to resolve worker, employer and service-provider concerns with the WorkSafe scheme.

WorkSafe WA**www.commerce.wa.gov.au/worksafe**

Visit the WorkSafe WA website for:

- organising for a community education officer to come to your workplace to explain the obligations of employers and workers under the Act, give talks on the role of WorkSafe and discuss specific workplace hazards relevant to your business
- a free agriculture safety advisory service
- WHS seminars for small businesses as part of the ThinkSafe program
- free, independent and confidential WHS advice and training to small businesses through the ThinkSafe Small Business Assistance Program.

Practice task 9

1. Complete the WHS training needs analysis and professional development plan. Be honest with yourself when completing the plan. You may wish to revisit this with your manager or supervisor to discuss your training requirements.

WHS training needs analysis and professional development plan			
Skills/knowledge to ensure compliance with the WHS legislative framework	Rating	Professional development activity planned	Comments
Scale: 1. Not confident 2. Need improvement 3. Skilled and confident 4. Able to supervise others		<i>For example, attend workshop on ...</i>	<i>For example, increased confidence level after completing professional development activity</i>
a) How confident are you in undertaking responsibilities and duties related to duty of care?	1 2 3 4		
b) How confident are you in undertaking responsibilities and duties related to incident notification?	1 2 3 4		
c) How confident are you in undertaking responsibilities and duties related to consultation?	1 2 3 4		
d) How confident are you in undertaking responsibilities and duties related to issue resolution?	1 2 3 4		
e) How confident are you in undertaking responsibilities and duties related to first aid?	1 2 3 4		

continued ...

Topic 3

Keep up-to-date with legislation and relevant publications

It is important to maintain your knowledge of WHS legislative, industry and organisational requirements. By using a range of sources of information, you can remain up-to-date with legislation. This information can then be communicated to others in the workplace so they are aware of and can find out more about legislative changes.

In this topic you will learn how to:

- 3A Use relevant sources to keep up-to-date with legislation and publications
- 3B Communicate information on legislative changes and publications

Manufacturer manuals and specifications

A PCBU who designs, manufactures, imports or supplies plant, structures or substances and equipment has duties under WHS legislation. They must provide information about what the plant, structure or substance was designed for and information about safe use.

Manufacturers, designers, importers and suppliers provide manuals and specifications for use and issue safety alerts and updates as new information becomes available.

Regulatory authorities

Your state or territory's WHS regulator regularly updates information on its website. Some regulators provide opportunities for you to subscribe to electronic newsletters or to register to receive electronic notifications about health and safety updates. They may also have sections on their sites dealing with incidents and prosecutions.

Training or information sessions and forums

There are a broad range of organisations that offer WHS training and professional development opportunities. These include registered training organisations (RTOs), unions, industry associations, WHS consultants and government authorities. Professional development and training should form part of your individual work plan. Under WHS legislation, there is a requirement to ensure that the WHS knowledge and skills of workers is maintained and up-to-date.

Unions

The Australian Council of Trade Unions (ACTU) is the peak body representing individual unions in Australia. Unions represent workers from a diverse range of industries and job types and are able to address a broad range of issues including health and safety. Ensure you know which union is relevant to your workplace and industry and the services it offers.

Available advice and services	Website information
<ul style="list-style-type: none"> • Health and safety specialists who can provide members with safety information and give advice on addressing safety problems. • Training: many unions run courses on different aspects of safety within the relevant industry. 	<p>For examples of safety information and services provided by unions, visit:</p> <ul style="list-style-type: none"> • the Australian Metal Workers Union's FAQ section at: www.amwu.asn.au/helpdesk/14/faq • ACTU Campaign, Speak up for Health and Safety at: www.actu.org.au/get-involved/current-campaigns.

Workplace noticeboards

Posting safety information on a noticeboard is an effective way to promote and maintain safety awareness and remind everyone that safety is a workplace priority. Legislative changes can be communicated by displaying safety posters highlighting the changes. By incorporating diagrams, pictures and simple steps, these posters can be used to explain revised safety procedures. You may also display a regularly updated list of WHS publications with a summary of the information that each provides.

Emails

Email is the quickest way to distribute information to everybody at the same time. Individuals in the workplace often receive many emails on a daily basis. If you have important information about a legislative change or newly released publication, you need to feel confident that the email will be opened and the information read and understood. In most email systems you can set up a 'received and read' confirmation for your email.

Here are some tips for preparing effective emails.

Write a meaningful subject line

Clearly state what the email is about and the level of importance of the information so the reader knows why they should read the message.

Use email flags

Use email flags to indicate the level of importance of the information. WHS legislative change may have a significant impact on the workplace and require immediate implementation.

Keep the message focused

Avoid including information that is not important or relevant to the subject.

Avoid attachments if possible

Copy and paste or summarise the important part of the source document into the body of the email. Links to documents or attachments can still be included for further reference.