

# Body Corporate Business

## HEALTH & SAFETY FOR BODIES CORPORATE

By now most people are aware that the new Health and Safety at Work Act 2015 (HSWA) comes into force on 4 April 2016, but what does this mean for bodies corporate?

### What has changed?

There is a new concept of PCBU, or person conducting a business or undertaking. Bodies corporate are PCBUs. PCBUs have duties/obligations under the HSWA to protect the health and safety of workers and others.

Committee members (or at least some of them, depending on their roles) will be “officers” (persons who exercise significant influence over the management of the body corporate). Officers must exercise due diligence to ensure the body corporate complies with its duties/obligations. The purpose of this is to ensure that health and safety is given sufficient importance and adequate resources and that these individuals drive the process. This duty cannot be delegated, however because they are volunteers, committee members will not commit an offence under the HSWA if they fail to comply with the due diligence duty of officers.

Two or more PCBUs, for example, a body corporate, the body corporate manager, the building manager and someone carrying out work for the body corporate, can have overlapping duties.

Owners or occupiers of residential units who engage someone solely to do residential work on their unit are specifically excluded from the definition of PCBU so the following duties do not apply to them.

The two main duties/obligations of PCBUs.

The “primary duty of care” requires the PCBU to ensure, so far as is reasonably practicable, the health and safety of workers while they are at work.

The second duty applies to a PCBU who manages or controls a workplace. If the body corporate engages any person (whether on contract or as an employee) to look after the building or other common property, even on a casual or intermittent basis or as a volunteer, then the building and the grounds will be a “workplace” for the purposes of the HSWA. This duty requires the PCBU to ensure, so far as is reasonably practicable, that the workplace, the means of entering and exiting the workplace, and anything arising from the workplace, are without risks to the health and safety of any person. That is, the obligation is not limited to workers while they are at work.

### What does this require bodies corporate to do?

Ensure, so far as is reasonably practicable:

- the health and safety of people engaged to do work on the building or common areas;
- the entrance and exit of the building where work is being carried out, and anything arising from the workplace, is without risks to the health and safety of workers and other people; and
- fixtures, fittings and plant (for example machinery, appliances, equipment and tools) are without risks to the health and safety of workers and other people.

### Body corporate committees should:

- carry out a risk assessment to identify hazards and make sure that this is regularly updated;
- communicate these hazards to anyone working on the property;
- prepare a health and safety policy to address these risks (and eliminate them where possible);
- keep a register of incidents and near misses and ensure the policy is updated to reflect learnings from these; and
- make sure that contractors apply sufficient resources to health and safety.

### In order to ensure that contractors work safely, bodies corporate should:

- do a reference check to ensure contractors have a good safety record, and the necessary licences and insurance policies; and
- consult, co-operate and co-ordinate activities with contractors including:
- advise the contractor of any known risks at the workplace;
- ensure the work is satisfactory and there are no safety concerns;
- discuss and resolve safety issues that may arise; and
- ensure the contractor prepares a safe work method statement if high-risk construction work is undertaken.

To find out more about what these obligations or what is meant by “so far as is reasonably practicable” or whether your body corporate “manages or controls a workplace” please contact us.



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