

Work Health and Safety Overview

November 2011



When, What and Why?

- 1st January 2012 – transitional period of up to 12 months for certain changes depending on location
- New harmonised work health and safety (WHS) legislation
- Focus on a nationally consistent legal framework with uniform laws across Australia
- Responsibility for WHS will rest with a real person as opposed to a corporation

Model Act

- Safe Work Australia (the Federal WHS authority) is developing the Act (called Model Act) for States and Territories to use for their own Act
- Each State and Territory will still have its own WHS Act but they will all be similar
- This will make it easier for businesses who operate in different States

Why are we changing?

- Federal Government wants to develop a seamless economy
- Reduce cost of safety compliance for businesses especially those who operate in multiple states
- Facilitate regulatory processes across Australia
- Generally improve level of health and safety for Australian workers
- Increase in penalties for non-compliance

Duty of Care

- If you have OHS obligations now you will continue to have them under the new legislation
- A person conducting a business or undertaking (PCBU) has the primary duty of care (previously called employer)
- Officers are anybody employed by the PCBU who make decisions which influence the way the PCBU does business
- Officers must exercise due diligence to ensure that PCBU complies with its WHS obligations

Due Diligence - Officers

- Officers need to have the following:
 - an understanding of their business and the associated hazards and risks
 - proper resources and processes in place to enable identification and elimination of hazards and risks
 - an up to date knowledge of WHS laws
 - a process for recording incidents and hazards
 - A means to resolve incidents with a clearly identifiable audit trail

Consultation

- PCBUs are required to consult with their workers on all WHS issues
- Worker is defined broadly to include contractors, sub-contractors, apprentices and volunteers ie anyone who is carrying out work for your business
- Health and Safety reps (HSRs) will have additional functions under the new legislation – this will also certainly mean more training for certain workers

Fines and Penalties

- Fines under the new legislation will at least double from previous Acts
- Range from \$50,000 for an individual worker up to \$600,000 for individuals such as a PCBU or Officers
- Up to \$3,000,000 for a corporation
- Individuals may also be sentenced to gaol for up to 5 years

Where to Now?

- Update your WHS knowledge
- Understand the hazards and risks inherent in your business
- Ensure you have systems in place to record incidents
- Ensure there are systems in place to effectively respond to hazard and risks
- Understand the WHS compliance issues facing your business – notification, consultation, systems and training