



Mining & Quarrying
OCCUPATIONAL HEALTH &
SAFETY COMMITTEE

Work Health and Safety Roles and Responsibilities Guide

Promoting Work Health and Safety in the Workplace

The South Australian Mining and Quarrying Occupational Health and Safety Committee

Promoting Work Health and Safety in the Workplace

This workplace industry safety resource is developed and fully funded by the Mining and Quarrying Occupational Health and Safety Committee (MAQOHSC).

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Contents

AIM.....	2
Definitions	2
1. Work Health and Safety Responsibilities - General	4
2. Person Conducting a Business or Undertaking (PCBU)	4
2.1 Mine Operator	5
2.2 Mine Holder.....	5
3. Officers.....	5
4. Senior Executives.....	8
5. Managers	9
6. Supervisors	10
7. Workers.....	12
FURTHER ASSISTANCE.....	13
ADDITIONAL INFORMATION	13
REFERENCES.....	13

Work Health and Safety Roles and Responsibilities Guide

AIM

The aim of this Guidance Material is to provide all persons in the workplace with an understanding of their roles and responsibilities in relation to the *Work Health and Safety Act 2012 (SA)* and the *Work Health and Safety Regulations 2012 (SA)*.

Definitions

- Due Diligence:** To acquire and keep up to date knowledge of Work Health and Safety matters, to understand the operations being carried out by the PCBU and the hazards and risks associated with the operations, to ensure that the PCBU has and uses appropriate resources and processes to eliminate or minimise risks to health and safety arising from the work being done, to ensure that the PCBU has appropriate processes in place to receive and respond promptly to information regarding incidents, hazards and risks and to ensure that the PCBU has, and uses processes for complying with duties or obligations under the *Work Health and Safety Act 2012 (SA)*.
- HSR:** A Health and Safety Representative (HSR) is a member of the workgroup elected to represent workers in matters relating to Work Health and Safety.
- Mine Holder:** Is the PCBU with control over a right or entitlement to carry out mining operations if a mining authorisation (as deemed by the South Australian Dept. of State Development, Mining Regulation Branch) is required for those operations and the PCBU holds the required mining authorisation, such as an Extractive Mineral Lease, Mining Lease, Private Mine, etc.
- Mine Operator:** Is the Mine Holder of the mine, unless the mine holder appoints another PCBU to be the Mine Operator in accordance with Regulation 615 of the *Work Health and Safety Regulations 2012 (SA)*.
- Officer:** The term “Officer” in regards to the *Work Health and Safety Regulations 2012 (SA)* is defined in the *Corporations Act 2001 (SA)*.
An Officer is a person who makes or participates in making decisions that affect the whole or a significant part of the business or undertaking, has the capacity to significantly affect the financial standing of the business or undertaking and those whose instructions or wishes the directors of the corporation are accustomed to act upon.

- Others:** Persons who are at the workplace but do not carry out work for the PCBU. This includes, but is not limited to, visitors, customers, clients and general public.
- PCBU:** Person Conducting a Business or Undertaking (PCBU) is the legal entity operating a business or undertaking. A PCBU may be an individual person or an organisation conducting a business or undertaking. It is not an individual, unless they are conducting the business in their own name as a sole trader or partner. Persons engaged solely as a worker or Officer of the business or undertaking are excluded from the definition of PCBU.
- Senior Executive:** Includes, but is not limited to, persons holding the position Chief Executive Officer, Director, Chief Operating Officer, Chief Financial Officer. Senior Executive positions are typically deemed to be “Officers”.
- Manager:** Includes, but is not limited to, persons holding the position Mine / Quarry Manager, Maintenance Manager, Human Resource Manager, Processing Manager, Environment Manager and Work Health and Safety Manager. Dependent upon the structure of the organisation, some Management positions may also be deemed “Officers”.
- Supervisor:** The immediate day to day manager of an individual or group of workers.
- Worker:** Any person who carries out work for a PCBU, including work as an employee, contractor, subcontractor, self-employed person, outworker, apprentice or trainee, work experience student, employee of a labour hire company placed with a ‘host employer’ and volunteers.
- Workplace:** A place where work is carried out for the PCBU and includes any place where a worker goes, or is likely to be, while at work. This may include, but is not limited to, mine / quarry pits, underground workings, workshops, training rooms, crib / lunch rooms, vehicles or vessels, processing facilities, offices, exploration sites and any area of the PCBU’s operations.

1. Work Health and Safety Responsibilities - General

Work Health and Safety responsibilities for different roles are legislated in the *Work Health and Safety Act 2012* (SA). The Act specifies duties for Person Conducting a Business or Undertaking (PCBUs), Officers, workers and others including:

- Designers;
- Suppliers;
- Importers;
- Manufacturers; and
- Installers.

The following principles apply to all duties:

- Duties are not transferrable - they cannot be delegated to another person
- A person can have more than one duty e.g. a PCBU manufacturing plant has duties as a manufacturer, and duties as a PCBU to their own workers.

More than one person can have the same duty. Where this happens, each person is required to carry out their duty to the extent they have the capacity to influence and control the matter.

Where a person has a duty to ensure health and safety, this means they are required to:

- Eliminate risks to health and safety as far as reasonably practicable;
- Or, if it is not reasonably practicable to eliminate risks to health and safety, to minimise the risks to health and safety, so far as is reasonably practicable.

2. Person Conducting a Business or Undertaking (PCBU)

Under the *Work Health and Safety Act 2012* (SA), a Person Conducting a Business or Undertaking (PCBU) has a primary duty of care to ensure workplace health and safety.

A PCBU must ensure, so far as is reasonably practicable, the health and safety of workers engaged by the PCBU (employees), workers caused to be engaged by the PCBU (labour hire employees), workers whose activities in carrying out work are influenced or directed by the PCBU (contractors) and other persons (Volunteers, Visitors, etc.), are not put at risk from work carried out as part of the business or undertaking by ensuring:

- Safe systems of work are developed and implemented;
- A safe work environment;
- Accommodation for workers, if provided, is appropriate;
- Safe use of plant, structures and substances;
- Facilities and amenities for the welfare of workers are adequate;
- Notification, investigation and recording of workplace incidents;
- Adequate information, training, instruction and supervision is provided;
- Compliance with the requirements under the *Work Health and Safety Regulations 2012* (SA);
- Effective systems are in place for monitoring the health of workers and workplace conditions.

2.1 Mine Operator

In addition to the requirements of a PCBU under the *Work Health and Safety Act 2012 (SA)*, the PCBU that is deemed or nominated as the Mine Operator under the *Work Health and Safety Regulations 2012 (SA)*, Chapter 10 Mines, has the duty to ensure:

- A safety management system is developed and implemented;
- That the safety management system contains the required content as specified in Regulation 622;
- That performance standards for measuring the effectiveness of the safety management system are developed;
- A system for auditing the effectiveness of the safety management system against the performance standards is developed and implemented;
- That the safety management system is maintained so as to remain effective; and
- That the safety management system is reviewed at least once every three years.

2.2 Mine Holder

If you as the Mine Holder, have appointed another PCBU as the Mine Operator, you have a duty to ensure that the Mine Operator is provided with all relevant information held by or under your control that may reasonably be required by the mine operator to discharge the duties imposed on the Mine Operator under the *Work Health and Safety Act 2012 (SA)*.

3. Officers

What must an Officer do?

The health and safety duty of an Officer requires them to exercise due diligence to ensure compliance by the PCBU with its health and safety obligations.

An Officer must ensure that the PCBU has in place appropriate systems of work and must actively monitor and evaluate health and safety management. An Officer's duty is aimed at achieving and sustaining compliance by the PCBU, which may not occur without the active involvement of its Officers.

The *Work Health and Safety Act 2012 (SA)*, Section 27(5) states that due diligence requires an Officer to take reasonable steps:

1. To acquire and keep up-to-date knowledge of Work Health and Safety matters (for example, what the *Work Health and Safety Act 2012 (SA)* requires and the strategies and processes for elimination or minimisation of hazards and risks so far as is reasonably practicable);
2. To gain an understanding of the nature of the operations of the PCBU and generally of the hazards and risks associated with those operations (advice from a suitably qualified person may be required to gain a general understanding of the hazards and risks associated with the operations of the business or undertaking);

3. To ensure that the PCBU has available for use, and uses, appropriate resources and processes to eliminate or minimise risks to health and safety from work carried out as part of the conduct of the business or undertaking (this requires an understanding of what is needed for health and safety, making decisions about procedures and resources and ensuring that they are used);
4. To ensure that the PCBU has appropriate processes for receiving and considering information regarding incidents, hazards and risks and responding in a timely way to that information (this should include the reporting of incidents and emerging hazards and risks, identifying if any further action is required to eliminate or minimise the hazards or risks so far as is reasonably practicable and ensuring steps are taken by the PCBU to take reasonably practicable steps);
5. To ensure that the PCBU has, and implements, processes for complying with any duty or obligation of the person conducting the business or undertaking under the *Work Health and Safety Act 2012 (SA)*, This includes:
 - Reporting notifiable incidents;
 - Consulting with workers;
 - Ensuring compliance with notices issued under the *Work Health and Safety Act 2012 (SA)*;
 - Ensuring the provision of training and instruction to workers about Work Health and Safety;
 - Ensuring that health and safety representatives receive their entitlements to training;
 - Ensuring that the PCBU complies with licensing and registration obligations;
 - Union right of entry requirements; and
 - The duty to consult, co-operate and co-ordinate activities with other duty-holders.
6. To verify the provision and use of the resources and processes referred to in paragraphs 3 to 5 (this makes it clear that 'ensure' means active verification, for example through inspection or auditing processes, that the resources and processes are in place and are being used).

This list is not meant to be exhaustive. There may be other things required for an Officer to show that they have exercised due diligence in the particular circumstances. For example, an Officer could not be said to be exercising due diligence to ensure compliance by the PCBU with its duties under the *Work Health and Safety Act 2012 (SA)*, if the Officer did not take action to ensure that significant issues with the health and safety performance of a contractor, of which they were aware, were properly addressed.

What is meant by 'reasonable steps' by an Officer?

Officers will only be required to take reasonable steps to ensure that they have the relevant knowledge and understanding or take the relevant decision or action. What is reasonable will depend on the particular circumstances, including the role and the ability to influence by the individual Officer.

Officers may meet the due diligence requirements in some respects by proper reliance on information from and the activities of others, while having more direct involvement in health and safety management and governance in other aspects.

To the extent to which an Officer will seek to rely on others, the Officer must be able to demonstrate the reasonableness of that reliance, which may be demonstrated through the receipt of credible information and advice from appropriate and competent persons.

What will be needed to comply with the definition of due diligence?

An Officer can only comply with their duty by taking an active and inquisitive role in the planning and actioning of health and safety initiatives.

While an Officer does not need to be involved directly in the implementation, they must make the decisions that allow for the appropriate measures to be taken by the PCBU and take reasonable steps to ensure that they are taken.

An Officer must have knowledge of the relevant matters before they are able to make decisions and verify the use of resources and processes.

That knowledge will be technical / functional (knowledge of Work Health and Safety and legal obligations of duty-holders within the PCBU), situational (what is happening and what that means) and strategic (what should the PCBU be doing and why).

That knowledge may need to come from Senior Managers, subject matter experts, Managers and Supervisors involved in the operations. Information will need to be gathered, analysed and reported and advice given from all levels of the business or undertaking.

To enable an Officer to satisfy the requirements of due diligence, the PCBU should have:

1. An appropriate governance structure with the right people in place, who are appropriately authorised and accountable, to enable Work Health and Safety to be properly attended to.

Note: *A formal structure may not be needed in a small business, where the Officers will be involved in the day to day activities and have easy access to the relevant information.*

2. Information gathering and reporting processes to facilitate the flow of Work Health and Safety information (including effective worker consultation and participation arrangements) and advice to the Officers, with the type of information that allows the Officers to understand the hazards and risks, obligations and performance of the organisation, and to make appropriate decisions.
3. A written register or other records of decisions made in the business or undertakings that are likely to affect the whole or a substantial part of such a business or undertaking including:
 - A description of the relevant business or undertaking;
 - The subject matter and purpose of the decision;
 - The reasons for the decision;
 - Why the decision is thought to affect the whole or a substantial part of the business or undertaking;

- Who made the decision and why;
- Who participated in making the decision and the basis of that participation; and
- Other matters considered in reaching the decision.

Note: *Officers are workers. Officers have the same legislative obligations under the Work Health and Safety Act 2012 (SA) as any other worker.*

4. Senior Executives

As Senior Executives are typically deemed to be Officers under the *Work Health and Safety Act 2012 (SA)*, they will be required to fulfill the duties as mentioned in section 4 “Officers”. It is however, the responsibility of Senior Executive to drive a strong Work Health and Safety culture.

Note: *If in doubt about “Officer” status, seek appropriate professional legal advice.*

A strong Work Health and Safety culture is one where workers can see and believe that their leaders are committed to their health and safety. Any input workers provide into the development of systems, policies and procedures is valued and considered, as part of the consultation process.

Effective leaders know the value of health and safety as part of everyday business operations and value the ideas and involvement of their workers.

Workers value a leader who sets clear direction and commits to action. Leaders, who say they are committed to a course of action but fail to adhere to them, send a clear message to their workers: ‘I am telling you the things you want to hear but I don’t intend to follow them’.

The Executive and Senior Leadership team should provide direction to incorporate the Work Health and Safety laws into existing channels of business development such as strategic planning, financial and resource planning, and performance measurement.

Responsibility lies with them to ensure there is an appropriate framework in place which is employed and embedded into business. Senior Leadership must also ensure integration of the Work Health and Safety laws into everyday business through engagement of workers at all levels to mitigate the risks and barriers.

Note: *Senior Executives are workers. Senior Executives have the same legislative obligations under the Work Health and Safety Act 2012 (SA) as any other worker.*

5. Managers

The role as a Manager under the *Work Health and Safety Act 2012 (SA)* is to lead, guide and support workers to understand and adhere to all Work Health and Safety policies and procedures as well as supporting and assisting other duty holders to meet their Work Health and Safety legislative obligations. Managers are also a key link between Senior Executives and workers.

Note: *Dependent upon the nature and operation of the organisation, some Managers may also be deemed an “Officer” under the Work Health and Safety Act 2012 (SA) and will need to ensure that they are complying with the duties of an Officer.*

Managers will need to ensure that workers are consulted and involved in any work health or safety matter that will, or may, affect them. Workers must be given the opportunities to raise issues or provide ideas and feedback to you as their Manager or through Health and Safety Representatives and Supervisors.

What do I have to do?

The *Work Health and Safety Act 2012 (SA)* requires you, as a Manager to, lead and support workers in their daily work activities.

To ensure you meet your responsibilities under the *Work Health and Safety Act 2012 (SA)*, you need to ensure that you:

- Understand, promote and comply with health and safety policies and procedures;
- Engage with your workers in an open, honest and meaningful way to ensure they understand what safety standards are expected of them;
- Encourage feedback and communication channels between you and your workers and you and supervisors;
- Ensure that Work Health and Safety personnel and supervisors are made aware of issues or concerns on safety, especially where you or your workers identify hazards or flaws in any operational procedures;
- Demonstrate your commitment to health and safety and model safe work practices to your workers; and
- Put into practice what safety standards you expect workers to follow, the standard you set is the one they will follow.

Managers must promote and foster open lines of communication and consultation with workers. This can be achieved by:

- Creating and nurturing joint partnerships with:
 - Workplace work groups;
 - Health and Safety Representatives and worker representatives; and
 - Supervisors;
- Ensuring that effective consultation processes are built in to the business through its systems, policies and procedures; and

- Engage with workers by being visible and open to feedback and ideas.

If you are already doing these things, then you are already sending a positive message to your workers that health and safety matters to you and that it's important to adhere to policies and procedures.

Note: *Managers are also workers. Managers have the same legislative obligations under the Work Health and Safety Act 2012 (SA) as any other worker.*

The manager's role in health and safety culture

Managers, as a part of the overall leadership team, play a pivotal role in the development and commitment to the health and safety culture within their teams. Workers respond positively to Managers who are open and honest in how they lead and manage them and value loyalty and commitment especially when it involves their health and safety.

Managers should demonstrate, through their words and actions, high standards of health and safety. If a Manager makes it clear that the most important thing to them each day is that they all go home in the same condition as when they arrived, then it sends a powerful message to workers to say "this is the accepted safety standard and it's the way we do things around here". In essence it's essential to put into practice what is preached.

The standard a manager accepts and displays is often the standard that their workers will follow and mirror. A Manager who turns a blind eye to, or encourages short cuts in work practices, does not convey to their workers that they are committed to safe work practices.

To guide and contribute to a stronger health and safety culture, Managers should also consider how they can influence and support workers through:

- Valuing their wellbeing, health and safety as much as productivity and financial outcomes;
- Making your commitment to health and safety visible in the workplace;
- Effectively communicating any messages, concerns or issues on health and safety through active listening and consultation;
- Connecting with your workers to understand the health and safety issues in your workplace;
- Being seen by workers in the workplace, not just in their own office;
- Making the time to visit workers and hear about their ideas, issues and concerns; and
- Ensuring that health and safety is included in any team planning, meetings, discussions and as a part of the day to day business.

6. Supervisors

The role of a Supervisor is to lead, guide and support workers to understand and adhere to all Work Health and Safety policies and procedures. Supervisors are also a key link between managers and workers.

It is a serious responsibility to take on a position of Supervisor in any organisation. It is not always an easy job and there will be times you will have to make the hard decisions and have uneasy conversations.

An organisation's success relies heavily on ensuring all involved have a clear understanding of their responsibilities and accountabilities. This is particularly important when it comes to protecting the health and safety of those in the workforce, be they employees or contractors.

In order to achieve business goals an organisation's leaders and supervisors must 'lead by example' and work within and clearly understand company policies, procedures and standards of work. Strong leadership is the key to an effective safety culture.

Supervisors are key personnel involved in the management of workers and as such have a higher duty of care relating to:

- Knowledge,
- Training,
- Experience, and
- Position related responsibilities.

What do I have to do?

Supervisors control the day-to-day work undertaken and have a duty to ensure:

- Work is undertaken in accordance with existing health and safety policies and procedures;
- All risks to health and safety are effectively controlled;
- Adequate levels of training and supervision are provided for the workgroup, particularly for new or inexperienced workers;
- That all workers are trained to perform their tasks competently;
- A prompt and appropriate response is provided when advised of Work Health and Safety issues;
- Incidents are effectively managed, i.e. ensure the welfare of injured persons and safety of other workers is taken care of, management is notified and the investigation process is commenced;
- The general work area is maintained in a safe condition;
- Plant and equipment is maintained in a safe condition;
- Risk controls are appropriately maintained;
- Implement policies and procedures;
- Consult with management, Health and Safety Representatives and workers;
- Conduct regular workplace inspections;
- Assess risks and implement controls in consultation with the workgroup;
- Suitable personal protective equipment is provided, used and maintained; and
- That any hazards identified are eliminated or minimised as far as is reasonably practicable.

Note: *Supervisors are workers. Supervisors have the same legislative obligations under the Work Health and Safety Act 2012 (SA) as any other worker.*

7. Workers

Under the *Work Health and Safety Act 2012 (SA)*, a worker is defined as “a person who carries out work in any capacity for a PCBU”, this includes:

- Employees;
- Contractors;
- Contractor employees;
- Labour hire employees;
- Apprentices or trainees;
- Work experience students;
- Volunteers; and
- Visitors.

Workers have a duty and obligation to:

- Take reasonable care that his or her acts or omissions (actions or words) do not adversely affect the health and safety of themselves and other persons;
- Comply, so far as the worker is reasonably able, with any reasonable instruction designed to protect their health and safety and that of any other persons while at work; and
- Co-operate with any reasonable policy or procedure relating to health or safety at the workplace that they have been notified of.

Examples of how workers can meet their duties and obligations are listed below, note this list is not exhaustive:

- Report any identified hazards, incidents or injuries that they become aware of;
- Only undertake tasks that they have been trained and deemed competent in;
- Only operate plant and equipment they have a licence (where required) for and or been deemed competent to operate;
- Wear Personal Protective Equipment (PPE) provided by a company for their protection and maintain in good condition;
- Participate in Rehabilitation and Return To Work (RRTW) programs designed to assist in their safe return to normal work duties; and
- Actively contribute in the daily business operations to improve Work Health and Safety conditions in the workplace.

FURTHER ASSISTANCE

MAQOHSC Work Health and Safety Specialists are available to provide further advice and assistance on all Work Health and Safety matters.

MAQOHSC Work Health and Safety Specialists are able to be contacted via our website at www.maqohsc.sa.gov.au or email maqohsc@sa.gov.au.

ADDITIONAL INFORMATION

Work Health and Safety Legislation, Codes of Practice, fact sheets, Health and Safety Representatives (HSR) information and guides can be found at the following websites:

SafeWork SA – www.safework.sa.gov.au or call 1300 365 255

Safe Work Australia – www.safeworkaustralia.gov.au or call 1300 551 832

REFERENCES

Work Health and Safety Act 2012 (SA)

Work Health and Safety Regulations 2012 (SA)

Corporations Act 2001 (SA)

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