

Topic 5 Section 2

Workplace Health and Safety Responsibilities

Contents

Legislative Responsibilities of Principal Contractors, Supervisors and Others	2
General Safety-related Responsibilities of Supervisors	9
Section 2 – Assessment Activities	13

Legislative Responsibilities of Principal Contractors, Supervisors and Others

Note!

The discussion in this section is based on Queensland legislation. Trainees are advised to consult the legislative provisions applicable to the state or territory in which they will be carrying out construction work.

Scope of the Act

The *Workplace Health and Safety Act 1995* sets out the workplace health and safety requirements for all workplaces, workplace activities and specified high-risk plant in Queensland. It does not apply to mines, or to land used for obtaining petroleum.

The Act aims to make sure that a person's health and safety is not put at risk because of his or her association with workplaces, workplace activities or specified high-risk plant.

A workplace is any place where work is, is to be, or is likely to be performed by a worker, self-employed person or employer.

Specified high-risk plant is plant that may be a risk to public health and safety, for example, lifts and air-conditioning units. The Act includes a list of specified high-risk plant.

Persons to Whom the Act Applies

The Act applies to a wide range of people, including:

- persons who conduct a business or undertaking
- employers
- self-employed people
- persons in control of workplaces
- principal contractors
- designers, manufacturers and suppliers (including importers) of plant
- erectors and installers of plant
- owners of specified high-risk plant
- manufacturers and suppliers (including importers) of substances to be used at workplaces
- designers of buildings used as workplaces
- persons in control of buildings or structures used as workplaces
- persons in control of fixtures fittings and plant situated in buildings or structures used as workplaces
- workers and other persons at workplaces— e.g. customers and visiting salespeople.

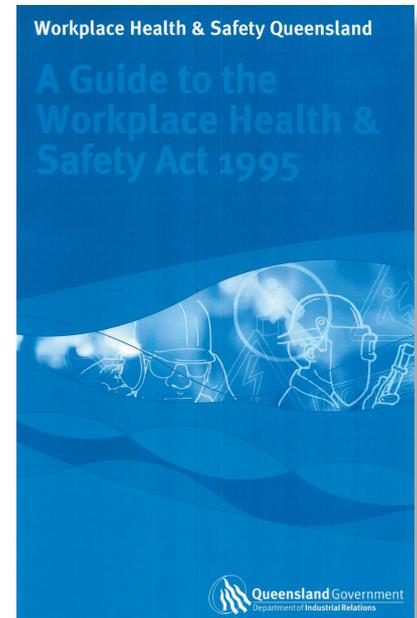
Each person to whom the Act applies has workplace health and safety obligations, as described in Part 3 of the Act, and must meet them.

Obligations of Principal Contractors

The *Workplace Health and Safety Act 1995* and the *Workplace Health and Safety Regulation 1997* define the responsibilities of a principal contractor. Generally, he or she must ensure that all work is carried out so as to ensure workplace health and safety, and that workplace activities do not involve any risk to the public.

Important, specific roles of the principal contractor are defined in the following:

- Section 31(1) of the Act
- Section 56 of the Regulation
- Sections 61 to 65 K of the Regulation.



Section 31(1) of the Act

31 Obligations of principal contractors

(1) A principal contractor has the following obligations for a construction workplace—

(a) to ensure the orderly conduct of all work at the construction workplace to the extent necessary—

(i) to ensure workplace health and safety at the workplace; and

(ii) to assist the discharge of workplace health and safety obligations of an employer or self-employed person;

(b) to ensure that persons at the workplace are not exposed to risks from—

(i) something that has been provided for the general use of persons at the workplace for which no other person owes a workplace health and safety obligation; or

(ii) a hazard at the workplace for which no other person owes a workplace health and safety obligation;

(c) to ensure that workplace activities at the workplace are safe and without risk of injury or illness to members of the public at or near the workplace;

(d) to provide safeguards and take safety measures prescribed under a regulation made for principal contractors.

- (2)** In addition, the principal contractor has the obligation mentioned in subsection (3) if the principal contractor reasonably believes, or should reasonably believe—
- (a) an employer at the workplace is not discharging the employer’s workplace health and safety obligation; or
 - (b) a self-employed person at the workplace is not discharging the person’s workplace health and safety obligation.
- (3)** The principal contractor must—
- (a) direct the employer or self-employed person to comply with the employer’s or self-employed person’s workplace health and safety obligation; and
 - (b) if the employer or self-employed person fails to comply with the direction—direct the employer or self-employed person to stop work until the employer or self-employed person agrees to comply with the obligation.

Section 56 of the Regulation

Section 56 of the regulation defines the content of a construction workplace plan. It should include details of:

- (a) the address of the workplace
- (b) the name and address of the principal contractor for the workplace
- (c) the principal contractor’s ABN
- (d) whether there is a workplace health and safety committee for the workplace
- (e) whether there is a workplace health and safety officer appointed for the workplace
- (f) when the construction work is expected to start at the workplace
- (g) the principal contractor’s estimate of how long the construction work will take
- (h) the type of construction work to be done at the workplace (e.g. ‘work to construct a road’)
- (i) the risks at the workplace for which the principal contractor owes a workplace health and safety obligation (as defined in the Act)
- (j) the proposed control measures to prevent, or minimize the level of the risks
- (k) how the principal contractor proposes to ensure the proposed control measures are implemented
- (l) how the principal contractor proposes to monitor and review the effectiveness of the proposed control measures
- (m) the site rules (e.g. “All visitors to the site must report immediately to the site office”)

- (n) the emergency procedures for the workplace
- (o) how the principal contractor proposes to discharge his or her workplace health and safety obligation to ensure activities at the workplace are safe and without risk to members of the public at or near the workplace
- (p) the plant to be provided for common use at the workplace.

Sections 61 to 65 K of the Regulation

These sections of the Regulation prescribe responsibilities of the principal contractor, including:

- preparation of a construction workplace plan (s.62)
- keeping work method statements or amendments thereto (s. 63)
- not allowing work to start unless the employer or self-employed persons have met certain requirements (s.64)
- monitoring implementation of work method statements (s.65)
- making the current construction workplace plan and work method statements available (s.65A)
- amending the construction workplace plan whenever a change in any of the information in subsections 56(i) to 56(p) changes (s.65B)
- meeting requirements for demolition work (ss. 65C–65H)
- sighting evidence that the employer and/or self-employed persons have completed a general induction (s.65J)
- meeting prescribed requirements for conduct and content of site inductions (s.65J).

Legislative Obligations of Supervisors

The supervisor on a civil construction project is, for the purposes of the *Workplace Health and Safety Act*, the person in control of the workplace, and therefore has a set of obligations under the Act that are separate to those required of the principal contractor.

Persons in control of workplaces must ensure that:

- the risk of injury or illness is minimised for people coming to work at the workplace. (This includes the risk of injury or illness from plant and substances).
- there is safe access to and from the workplace for everyone.

Legislative Obligations of Others in the Workplace

The Act imposes obligations on a number of other persons. As described in following paragraphs, the obligations are different for each of the following:

- Persons who conduct a business or undertaking
- Employers
- Self-employed persons
- Persons in control of workplaces (as outlined above)
- Principal contractors
- Designers, manufacturers and suppliers
- Erectors and installers of plant
- Owners of specified high-risk plant
- Manufacturers and suppliers of substances
- Designers of buildings
- Persons in control of buildings or structures
- Persons in control of fixtures, fittings and plant
- Workers and other people

A person may have more than one set of obligations under the Act.

For example, a person may be an employer and a principal contractor at the same time and at the same workplace. In this case, the person would have two sets of obligations— those of an employer and a principal contractor.

Persons who Conduct a Business or Undertaking

Persons who conduct a business or undertaking must ensure the health and safety of each person who performs a work activity for the business or undertaking.

Employers

Employers must ensure the health and safety of each of their workers and the health and safety of themselves. They are also required to ensure that the health and safety of other people is not adversely affected by the way they conduct their business and work activities.

Self-Employed Persons

Self-employed persons must ensure that their own health and safety and the health and safety of others is not adversely affected by the way they conduct their business and work activities.

Designers, Manufacturers and Suppliers

Designers, manufacturers and suppliers (including importers) of plant must ensure that the plant is safe and does not pose a health risk when used properly. Obligations cover the design, construction, testing and examination of plant and the provisions of information about its safe use.

Erectors and Installers of Plant

Erectors and installers of plant must erect or install the plant using safe procedures. They must also ensure that nothing about the way the plant was erected or installed makes it unsafe or a risk to health when used properly.

Owners of Specified High-Risk Plant

Owners of specified high-risk plant must ensure that it is maintained so as to be safe and without risk to health when used properly.

Manufacturers and Suppliers

Manufacturers and suppliers (including importers) of substances to be used at workplaces must ensure that the substances are safe and without risk to health when used properly. They must also ensure that the substances undergo appropriate examination and testing and that information about their safe use is available.

Designers of Buildings

Designers of buildings used as workplaces must ensure that persons who subsequently use and maintain the building are not exposed to risks to their health and safety as a consequence of the design.

Persons in Control of Buildings

Persons in control of buildings or structures used as workplaces must ensure that these are safe and do not pose risks to health.

Persons in Control of Fixtures, Fittings and Plant

Persons in control of fixtures, fittings and plant situated in buildings or structures used as workplaces must ensure that these are safe and without risk to health.

Workers and Others

Workers and other people at workplaces must follow instructions given by an employer or principal contractor. They must not deliberately put the workplace health and safety of anyone at risk, injure themselves or misuse anything provided for workplace health and safety. Workers must use personal protective equipment if it is provided by an employer and if they have been trained in its use.

Meeting Obligations Under the Act

Each person must meet his or her obligations under the Act in relation to regulations, advisory standards, and industry codes of practice. This can be done in the following ways:

Regulations

Generally, a regulation will either prohibit exposure to a risk or prescribe ways to prevent or minimise exposure to a risk.

To meet your obligations under the Act, you must comply with regulations.

Advisory Standards

Advisory standards state ways to manage exposure to risks that are common throughout industry.

To meet your obligations under the Act, you should follow advisory standards; however, you may adopt another way if you think it is more suited to your business or work activity.

This flexibility is designed to allow you to choose the most appropriate way to manage exposure to risks at your workplace.

Industry Codes of Practice

Industry codes of practice state ways to manage exposure to risks that are typical in an industry or part of an industry.

To meet your obligations under the Act, you should follow an industry code, although you may adopt another way if you think it is more suited to your business or work activity. This flexibility is designed to allow you to choose the most appropriate way to manage exposure to risks at your workplace.

Meeting Obligations Where There is No Regulation, Advisory Standard, or Industry Codes of Practice

Where there is no regulation, advisory standard or industry code of practice about exposure to a risk, you can meet your obligations by choosing any appropriate way to minimise exposure to a risk.

However, you must take reasonable precautions and exercise proper diligence in making sure the risk is managed. At the very least, a risk assessment should be conducted to identify hazards and determine appropriate control measures.

Breach of Obligation

If you breach an obligation under the Act, you can be prosecuted.

Penalties are substantial, ranging from \$37 500 or 6 months imprisonment for an individual or \$187 500 for a corporation to a maximum penalty for a breach causing death or grievous bodily harm of \$75 000 or 2 years imprisonment for an individual and \$370 000 for a corporation.

If there are multiple deaths, then the maximum penalty increases to \$150 000 or 3 years imprisonment for an individual and \$750 000 for a corporation.

Mitigating Factors

Following a regulation will provide you with a defence in a prosecution for a breach of an obligation.

Following an advisory standard or industry code of practice will also provide you with a defence in a prosecution for breach of an obligation.

If you do not follow an advisory standard or industry code of practice, you must show that you took reasonable precautions and exercised proper diligence in choosing a way to manage exposure to the risk, or that the breach happened as a result of factors over which you had no control.

General Safety-related Responsibilities of Supervisors

The construction supervisor has two general responsibilities that are not directly related to the Act or a regulation, but that follow from the supervisor's position as the employer of labour and contractor's representative on site. These responsibilities are:

- to promote safety by example
- to give special attention to safety when starting new workers on the job.

Responsibilities of Supervisors to Promote Safety by Example

The discussion in section 1 of this topic showed that both laws and law enforcement, and gaining the co-operation of everyone on site, are essential tools in the campaign to make the workplace safer.

One of the most effective ways a supervisor can use to gain the co-operation of others is to consistently model good safety behaviours. This means setting an example in safety matters, so that others get into the habit of building safety into everything that happens on site. For a supervisor, appropriate actions include the following:

- a. Every time you engage a new employee, inform him or her of the job safety

requirements and facilities.

- b. Every time you intend to tell an employee to do something, think of the safety angle and include it in your instructions. For example:
 - Put up the barriers and signs before any work starts.
 - Keep the job tidy at all stages.
 - Get wire cutters and protective gloves.
- c. Every time you see something that might be unsafe, investigate and if necessary correct it.
- d. Every time, set an example in what you do and how you do it. For example:
 - Wear or use the safety gear you expect the workers on the job to wear or use.
 - Observe all the safety rules.
 - Avoid unsafe short cuts and makeshift methods.
 - Clean up as you go.
- e. Every time an accident happens investigate, find and eliminate the cause, and take follow-up action, such as:
 - Installing guards on machinery
 - Pointing out the cause to the other employees
 - Defining the preventive measures that must be taken in future.
- f. Every time you move around a job site, keep a lookout for potential dangers (hazards). In addition, at least once a week check the job by inspecting it from the safety point of view alone.

Responsibilities of Supervisors when Starting New Workers

We know that younger, new and inexperienced employees tend to have more accidents than the experienced people, and that the way to overcome this problem is to give them special attention.

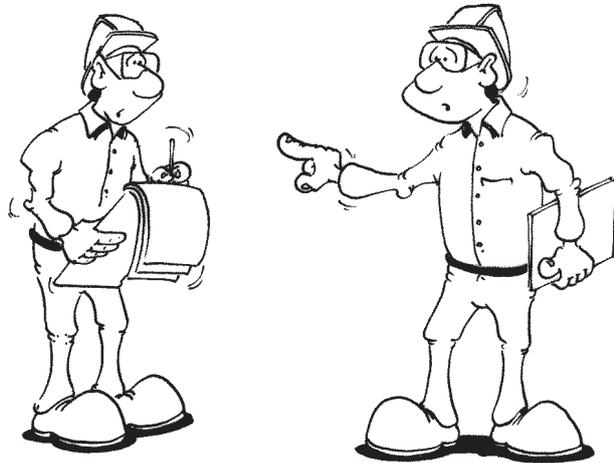
New Employees

For new employees, special attention means:

- Make sure the employee reads the job safety rules. Question the person about his or her understanding of the rules, and encourage questions from the employee. Emphasise that these rules are for personal protection and that their observance is a condition of the job.
- Once the person's first task has been decided, making sure that he or she is issued with the appropriate protective gear and other necessary tools for the job.
- Take the person to the job

- Tell him or her briefly about the job as a whole and where their role ‘fits in’.
- Tell and show the person what he or she has to do, building in safety as you go.
- Get feedback to ensure understanding.
- Emphasise safety.
- Put the person to work— check and correct work practices.
- Set a task and state when you will be back to check.
- Come back at the appointed time, check and correct.

Whenever possible, after describing the job and where the new starter fits in, hand the person over to a ganger or a trusted old hand. Let this person tell and show the newcomer what has to be done and get them working together, but stay, watch, and listen— and emphasise construction and safety aspects. This approach should help you to get or keep the older hands involved in safety.



Inexperienced Employees

An inexperienced person is defined as someone who is about to do a particular job for the first time. In such cases, the person may have seen others doing the job and might have some idea of how to go about it. A good approach in such cases is to:

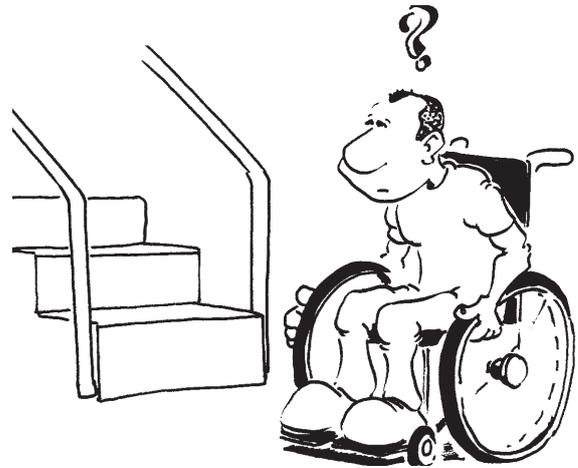
- Ask the inexperienced employee what he or she knows about the job.
- Emphasise safety.
- Put the person to work— check and correct work practices.
- Set a task and deadline.
- Come back and check.

Disabilities and Health Problems

You will need to ask new employees about disabilities or health problems they may have. This knowledge is valuable for two reasons:

- Reasonable adjustment may be required, in the case of employees with disabilities.
- Employees with heart problems, diabetes and other health problems may require assistance in the case of an attack.

While the purpose of collecting this information is to assist the employee, it must be treated with care. Personal information must be kept confidential, in accordance with privacy legislation and the person's wishes.



Section 2 – Assessment Activities

For information on how these assessment activities may be used as part of the learning process, see the section on 'Assessment' in the 'Topic Descriptor' section at the front of this topic.

Theory Questions

The following questions allow you to assess your progress in understanding the material presented in Section 2. The questions may be of any of the following types:

- multiple choice (identify correct answer or answers)
- multiple choice (identify incorrect answer or answers)
- fill in the gaps in a sentence or statement
- identify a sentence or statement as TRUE or FALSE
- write a few sentences or a short paragraph.

Answers to the question are shown in the separate 'Answer' section.

Question 1

Name five classes of people who have responsibilities under the *Workplace Health and Safety Act 1995*.

Question 2

Give an example of a person who may have two sets of workplace health and safety obligations.

Question 3

If you are an employer in a workplace, what are your workplace health and safety obligations?

Question 4

If you are the owners of specified high-risk plant in a workplace, what are your workplace health and safety obligations?

Question 5

If you are a worker in a construction workplace, what are your workplace health and safety obligations?

Question 6

If you are a sales representative visiting a construction workplace, what are your workplace health and safety obligations?

Question 7

From the following list, identify the correct statement or statements about meeting obligations under the Workplace Health and Safety Act.

- You must comply with a regulation.
- You must follow the provisions of an advisory standard.
- You may adopt a way other than that specified in an advisory standard if you think it is more suited to your business or work activity.
- The flexibility available in an industry code of practice is designed to allow you to choose the most appropriate way to manage exposure to risks at your workplace.

Question 8

Where there is no regulation, advisory standard or industry code of practice about exposure to a risk, how can you can meet your workplace health and safety obligations?

Question 9

If you are being prosecuted for a breach of a workplace health and safety obligation, what mitigating factors might you be able to plead in your defence?

Question 10

New, younger and inexperienced employees tend to have more accidents than experienced people and need special attention. Give three examples of ways that a supervisor could help a new employee to start work safely.
