



**Lutheran Church of Australia | National Office |
New Work Health and Safety Laws
PCBU, Officer and Worker
PSU_NAT_POL_000_INF_002**

1.0 Person Conducting a Business or Undertaking

(WHS Act Part1 Division3 S5, Part2 Division4 S20-26)

Who is a 'person conducting a business or undertaking' PCBU?

Under the new Work Health and Safety (WHS) laws the PCBU becomes an employer and includes:

- ❖ employers
- ❖ corporations
- ❖ associations
- ❖ partnerships
- ❖ sole traders
- ❖ certain volunteer organisations

When is a person not a PCBU?

A person is not a PCBU if they are:

- ❖ engaged solely as a worker or an officer
- ❖ an elected member of a local authority
- ❖ volunteer association where no-one is paid to carry out work for the association
- ❖ a strata title body corporate that is responsible for common areas used only for residential purposes

What are the duties of a PCBU?

A PCBU has the primary duty of care of the workplace health and safety:

- ❖ must ensure the health and safety of workers, customers and visitors by eliminating or minimising risks at the workplace, so far as reasonably practicable

2.0 An Officer

(WHS Act Part2 Division4 S27)

Who is an officer?

The WHS laws impose a positive duty on officers of PCBU to exercise due diligence to ensure their organisation complies with its WHS duties. Officers include:

- ❖ directors, company secretary, officeholder
- ❖ shadow directors
- ❖ those involved in making decisions that affect the whole or a substantial part of the business or undertaking
- ❖ those with capacity to affect significantly the organisation's financial standing
- ❖ those on whose instructions or wishes directors are accustomed to act
- ❖ receivers, administrators, liquidators

3.0 Worker

(WHS Act Part1 Division3 S7, Part2 Division 4 S28)

Who is a worker?

A worker is any person who carries out work for a 'person conducting a business or undertaking' PCBU including:

- ❖ employee
- ❖ trainee
- ❖ volunteer
- ❖ outworker
- ❖ apprentice
- ❖ work experience student
- ❖ contractor or sub- contractor
- ❖ employees of a contractor or sub-contractor
- ❖ employee of a labour hire company assigned to work for a PCBU
- ❖ sole trader where they carry out work for another business

Duties of a worker

A worker must while at work

- ❖ take reasonable care for their own health and safety
- ❖ take reasonable care for the health and safety of others (others include clients, customers and visitors)
- ❖ comply with any reasonable instruction of the PCBU
- ❖ cooperate with any reasonable policies and procedures of the PCBU

Refer to www.safeworkaustralia.gov.au