

Workplace Health and Safety Alert

As of 1 January 2012, the new WH&S laws will apply, and any workplace accident after this time will be subject to the new laws and harsher penalties.

The WHS (previously OHS) harmonisation laws have expanded the definitions of several important matters:

- who exactly are 'workers';
- what constitutes a 'workplace'; and
- who are 'officers', that is, who is *responsible* for workplace safety.

All persons carrying on a business or undertaking need to be prepared, but many smaller businesses without dedicated resources and people to manage the imposition of the new laws, will struggle.

Importantly, there will be no transition or 'grace period', and the new penalty regime will apply from 1 January.

Notably, the penalties for a breach of an individual officer's duty can be a fine of up to \$600,000 and/or five years imprisonment.

Many businesses will not appreciate that the new definition of an "officer" is now very broad and could include the individual board members, the executive team, individual partners in a partnership, insolvency administrators, general office and HR managers.

One of the very first steps an organisation should take is to identify all of the actual "officers" as defined under the Act and make sure that they are fully aware and informed about their individual duties and liabilities under the new laws.

The next step might be to identify exactly to whom a duty is owed. Given that it is far wider than simply employees, i.e. to contractors, subcontractors, work experience students, volunteers and others, a list might be prepared and any terms of engagement may need to be modified as well as the scope and extent of inductions.

Businesses also need to review current policies and procedures to ensure compliance on matters such as consultation arrangements, election of WH&S representatives, training etc.

Businesses under contractual obligations which include any reference to WH&S also need to review their obligations to ensure compliance.

WH&S is a very important matter for all workplaces to get right, and while the new laws will bring many changes, the benefits are not readily apparent.

For assistance with all your workplace health and safety needs, [contact the professional team at our Gold Coast or Brisbane office.](#)

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