

Stack Masula

Supporting Your Business in:

- Occupational Health and Safety 
- Quality Assurance 
- Environmental Management 
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CONSTRUCTION HEALTH AND SAFETY LEGISLATION MADE SIMPLE

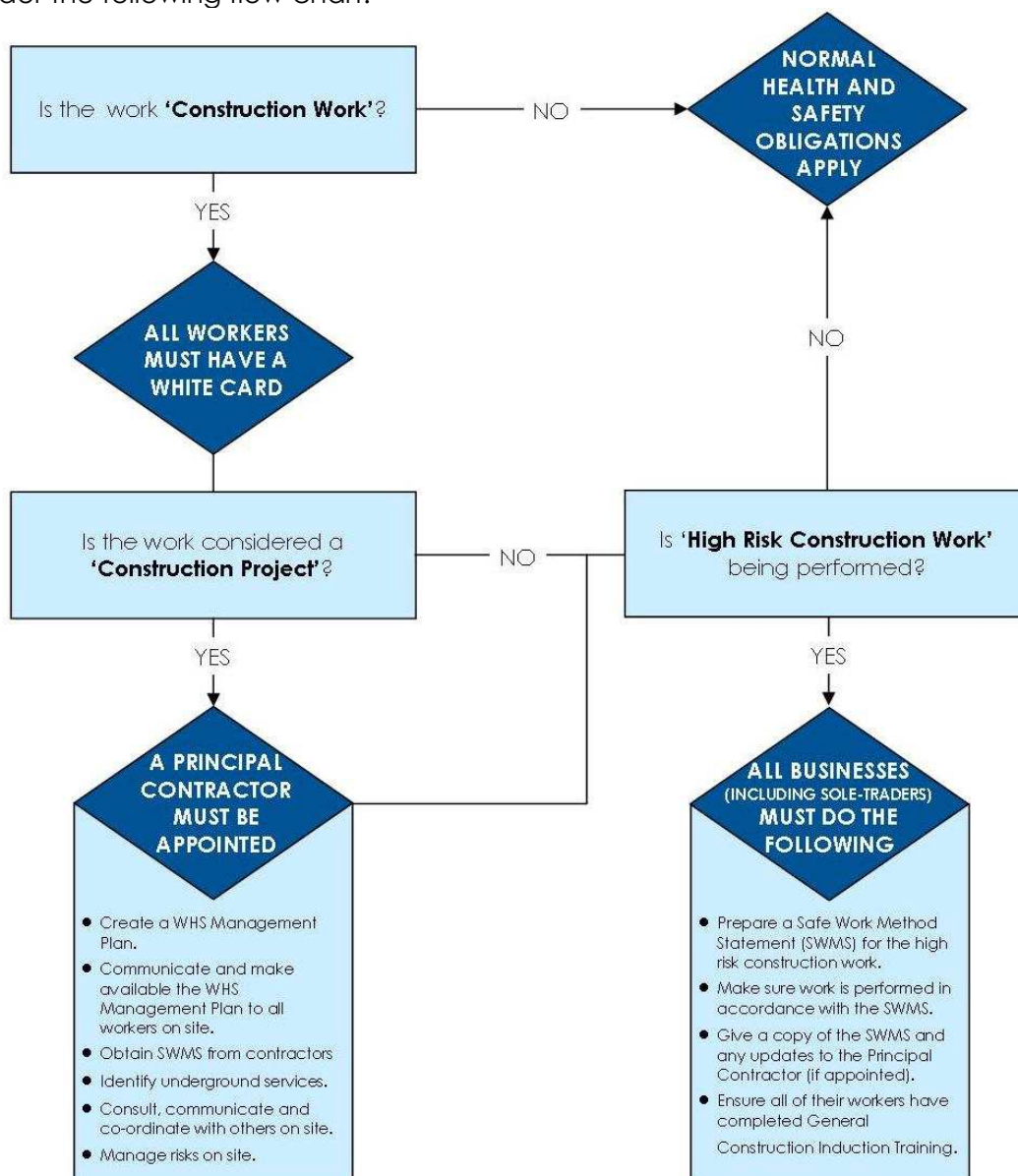


CONSTRUCTION SAFETY LEGISLATION MADE SIMPLE

Like most legislation, the Work Health and Safety Act and Regulations are extensive and may be confusing to persons who have not had to use them before. The Regulations specify the requirements for managing health and safety while performing construction work, with respect to the worksite, plant, equipment and substances, systems of work, training requirements, supervision and the associated safety paper work.

Failure to meet the requirements of the Act and Regulations, and the absence of required safety paperwork may result in expulsion from a work site and/or result in receiving improvement or prohibition notices from inspectors, often delaying work and costing your business money. The following information has been created to help simplify these requirements.

Consider the following flow chart:



In order to have a clear understanding of the flow chart consider the following definitions.

STEP 1

WHAT IS CONSTRUCTION WORK?

Construction work means any work carried out in connection with the construction, alteration, conversion, fitting-out, commissioning, renovation, repair, maintenance, refurbishment, demolition, decommissioning or dismantling of a structure.

WHAT IS A STRUCTURE?

Structure means anything that is constructed, whether fixed or moveable, temporary or permanent and includes –

- Buildings, masts, towers, framework, pipelines, transport infrastructure and underground works (shafts or tunnels); and
- Any component of a structure; and
- Part of a structure.

This includes the following:

- Any installation or testing carried out in connection with one of the above activities;
- The removal from the workplace of any product or waste resulting from demolition;
- The prefabrication or testing of elements, at a place specifically established for the construction work, for use in construction work;
- The assembly of prefabricated elements to form a structure, or the disassembly of prefabricated elements forming part of a structure;
- The installation, testing or maintenance of an essential service in relation to a structure;
- Any work connected with an excavation;
- Any work connected with any preparatory work or site preparation (including landscaping as part of site preparation) carried out in connection with one of the above activities;
- Any activity referred to above that is carried out on, under or near water, including work on buoys and obstructions to navigation.

WHAT IS NOT CONSTRUCTION WORK?

Construction work does not include any of the following:

- The manufacture of plant;
- The prefabrication of elements, other than at a place specifically established for the construction work, for use in construction work;
- The construction or assembly of a structure that once constructed or assembled is intended to be transported to another place;
- Testing, maintenance or repair work of a minor nature carried out in connection with a structure;
- Mining or the exploration for or extraction of minerals.

ADDITIONAL OBLIGATIONS OF A PERSON CONDUCTING A BUSINESS OR UNDERTAKING WHEN PERFORMING CONSTRUCTION WORK

OBLIGATION	REFERENCE	MAXIMUM PENALTY
Provide and maintain a work environment without risks to health and safety.	WHS Act s19(3)(a)	<p>CATEGORY 1 – RECKLESS CONDUCT</p> <p>Individual who is not a person conducting a business or undertaking i.e. not a sole-trader and not an officer of a business or undertaking → 3000 penalty units (\$300,000) or 5 years imprisonment</p> <p>Individual who is a person conducting business or undertaking i.e. a sole-trader or an officer of a business or undertaking → 6000 penalty units (\$600,000) or 5 years imprisonment</p> <p>Body corporate → 30000 penalty units (\$3,000,000)</p> <p>CATEGORY 2 – FAILURE TO COMPLY WHERE AN INDIVIDUAL IS EXPOSED TO A RISK OF DEATH OR SERIOUS INJURY OR ILLNESS</p> <p>Individual who is not a person conducting a business or undertaking i.e. not a sole-trader and not an officer of a business or undertaking → 1500 penalty units (\$150,000)</p>
Provide and maintain safe plant and structures.	WHS Act s19(3)(b)	
Provide and maintain safe systems of work.	WHS Act s19(3)(c)	
Ensure the safe use, handling and storage of plant, structures and substances.	WHS Act s19(3)(d)	

OBLIGATION	REFERENCE	MAXIMUM PENALTY
Provide adequate facilities for the welfare at work of workers in carrying out work on behalf of the business or undertaking, including ensuring access to those facilities.	WHS Act s19(3)(e)	Individual who is a person conducting business or undertaking i.e. a sole-trader or an officer of a business or undertaking → 3000 penalty units (\$300,000) Body corporate → 15000 penalty units (\$1,500,000)
Provide any information, training, instruction or supervision that is necessary to protect all persons from risks to their health and safety arising from work carried out on behalf of the business or undertaking.	WHS Act s19(3)(f)	CATEGORY 3 - FAILURE TO COMPLY Individual who is not a person conducting a business or undertaking i.e. not a sole-trader and not an officer of a business or undertaking → 500 penalty units (\$50,000) Individual who is a person conducting business or undertaking i.e. a sole-trader or an officer of a business or undertaking → 1000 penalty units (\$100,000)
Ensure that the health of workers and the conditions at the workplace are monitored for the purpose of preventing illness or injury of workers arising from the conduct of the business or undertaking.	WHS Act s19(3)(g)	Body corporate → 5000 penalty units (\$500,000)
Ensure that the workplace is secured from unauthorised access with regard to the risks at the workplace and the likelihood of unauthorised access.	WHS Regulation s298	\$3 600 (Individual) \$18 000 (Body Corporate)
Prepare or have prepared by another person a safe work method statement for proposed high risk construction work.	WHS Regulation s299	\$6 000 (Individual) \$30 000 (Body Corporate)
Have in place arrangements for ensuring that high risk construction work is carried out in accordance with the safe work method statement for the work	WHS Regulation s300(1)	\$6 000 (Individual) \$30 000 (Body Corporate)

OBLIGATION	REFERENCE	MAXIMUM PENALTY
<p>If high risk construction work is not carried out in accordance with the safe work method statement for the work, ensure that the work:</p> <ul style="list-style-type: none"> Is stopped immediately or as soon as it is safe to do so; and Resumed only in accordance with the statement. 	WHS Regulation s300(2)	<p>\$6 000 (Individual)</p> <p>\$30 000 (Body Corporate)</p>
Give a copy of the safe work method statement to the principal contractor.	WHS Regulation s301	<p>\$3 600 (Individual)</p> <p>\$18 000 (Body Corporate)</p>
Review and revise safe work method statements as necessary if required by the established issue resolution procedures for the project.	WHS Regulation s302	<p>\$3 600 (Individual)</p> <p>\$18 000 (Body Corporate)</p>
Retain a copy of the safe work method statement until the construction work to which it relates is complete or for at least 2 years if a notifiable incident occurs in connection with the high risk construction work.	WHS Regulation s303(1-2)	<p>\$1 250 (Individual)</p> <p>\$6 000 (Body Corporate)</p>
Ensure a copy of the safe work method statement is readily accessible to any worker engaged to carry out the high risk construction work.	WHS Regulation s303(3)	<p>\$3 600 (Individual)</p> <p>\$18 000 (Body Corporate)</p>
Ensure that a copy of the safe work method statement is readily accessible for as long as it is required to be kept, for instance if a notifiable incident occurs then the WHS management plan must be readily accessible for 2 years.	WHS Regulation s303(4)	<p>\$1 250 (Individual)</p> <p>\$6 000 (Body Corporate)</p>

OBLIGATION	REFERENCE	MAXIMUM PENALTY
Obtain current underground essential services information about the part of a workplace where excavation work is being carried out and any adjacent areas.	WHS Regulation s304(2)	\$3 600 (Individual) \$18 000 (Body Corporate)
Provide the current underground essential services information to any person engaged to carry out the excavation work.	WHS Regulation s304(3)	\$3 600 (Individual) \$18 000 (Body Corporate)
Take into account the current underground essential services information in carrying out or directing or allowing the carrying out of the excavation work.	WHS Regulation s304(4)	\$3 600 (Individual) \$18 000 (Body Corporate)
Ensure that the current underground essential services information is available for inspection until the excavation work is completed or if a notifiable incident occurs then at least 2 years.	WHS Regulation s304(5)	\$3 600 (Individual) \$18 000 (Body Corporate)
Ensure General Construction Induction Training is undertaken by any worker engaged to carry out construction work. (NOTE: retraining is required if the worker has not worked in construction in more than 2 years)	WHS Regulation s316	\$3 600 (Individual) \$18 000 (Body Corporate)
A worker must keep their General Construction Induction Training Card available for inspection.	WHS Regulation s326	\$1 250 (Individual) \$6 000 (Body Corporate)

WHAT IS HIGH RISK CONSTRUCTION WORK?

High Risk Construction Work means construction work that:

- Involves a risk of a person falling more than 2 metres;
- Is carried out on a telecommunication tower;
- Involves demolition of an element of a structure that is load-bearing or otherwise related to the physical integrity of the structure;
- Involves, or is likely to involve, the disturbance of asbestos;
- Involves structural alterations or repairs that require temporary support to prevent collapse;
- Is carried out in or near a confined space;
- Is carried out in or near:
 - A shaft or trench with an excavated depth greater than 1.5metres; or
 - A tunnel;
- Involves the use of explosives;
- Is carried out on or near pressurised gas distribution mains or piping;
- Is carried out on or near chemical, fuel or refrigerant lines;
- Is carried out on or near energised electrical installations or services;
- Is carried out in an area that may have a contaminated or flammable atmosphere;
- Involves tilt-up or precast concrete;
- Is carried out on, in or adjacent to a road, railway, shipping lane or other traffic corridor that is in use by traffic other than pedestrians;
- Is carried out in an area at a workplace in which there is any movement of powered mobile plant;
- Is carried out in an area in which there are artificial extremes of temperature;
- Is carried out in or near water or other liquid that involves a risk of drowning; and/or
- Involves diving work.

WHAT IS A SAFE WORK METHOD STATEMENT?

A **Safe Work Method Statement** is a written statement which details how high risk construction work is to be performed.

WHAT SHOULD BE ON A SAFE WORK METHOD STATEMENT?

The SWMS must:

- Identify the work that is high risk construction work.
- Specify hazards relating to the high risk construction work and risks to health and safety associated with those hazards.
- Describe the measures to be implemented to control the risks.
- Describe how the control measures are to be implemented, monitored and reviewed.

The SWMS must take into account all relevant matters including:

- Circumstances at the workplace that may affect the way in which the high risk construction work is carried out.
- If the high risk construction work is carried out in connection with a construction project the WHS management plan that has been prepared for the workplace.
- Be set out and expressed in a way that is readily accessible and understandable to persons who use it.

A copy of the safe work method statement must be given to the principal contractor.

The work should be monitored to ensure that the high risk construction work is carried out in accordance with the safe work method statement for the work. If high risk construction work is not carried out in accordance with the safe work method statement for the work, ensure that the work:

- Is stopped immediately or as soon as it is safe to do so; and
- Resumed only in accordance with the statement.

The SWMS should also be reviewed and revised if a safety concern is raised with regard to the high risk construction work covered by it.

If the SWMS is changed it should be reissued to the principal contractor.

A copy of the safe work method statement should be kept until the construction work to which it relates is complete or for at least 2 years if a notifiable incident occurs in connection with the high risk construction work.

STEP 2

WHEN IS A PRINCIPAL CONTRACTOR REQUIRED?

A person or business (Person Conducting a Business or Undertaking) that commissions a construction project is the principal contractor for the project. (NOTE: this may be the owner).

If they engage another person or business (Person Conducting a Business or Undertaking) as the principal contractor for the construction project and authorises the person to have management or control of the workplace and to discharge the duties of a principal contractor that person or business is the principal contractor.

A **Construction Project** is a project that involves construction work where the cost of the construction work is \$250 000 or more.

A construction project has only one principal contractor at any specific time.

The Principal Contractor is considered to have management or control of the workplace and must fulfil their obligations accordingly.

So far as is reasonably practicable that the means of entering and exiting the workplace and anything arising from the workplace are without risks to the health and safety of any person.

ADDITIONAL OBLIGATIONS OF A PRINCIPAL CONTRACTOR

OBLIGATION	REFERENCE	MAXIMUM PENALTY
Ensure that signs are installed and are clearly visible that show the principal contractor's name and telephone contact numbers (including after hours telephone number) and the location of the site office for the project, if any.	WHS Regulation s308	\$3 600 (Individual) \$18 000 (Body Corporate)
Prepare a written WHS management plan for the workplace before work on the project commences.	WHS Regulation s309(1)	\$6 000 (Individual) \$30 000 (Body Corporate)
Inform persons working on the site of what is in the WHS management plan and that they can inspect it if they would like to.	WHS Regulation s310	\$3 600 (Individual) \$18 000 (Body Corporate)

OBLIGATION	REFERENCE	MAXIMUM PENALTY
Review and revise the WHS management plan to ensure that it remains up to date.	WHS Regulation s311(1)	\$3 600 (Individual) \$18 000 (Body Corporate)
Ensure that each person carrying out construction work in connection with the project is made aware of any revision to the WHS management plan.	WHS Regulation s311(2)	\$3 600 (Individual) \$18 000 (Body Corporate)
Obtain Safe Work Method Statements for high risk construction work before the work begins.	WHS Regulation s312	\$3 600 (Individual) \$18 000 (Body Corporate)
Keep a copy of the WHS management plan (and any revisions) until the project is completed.	WHS Regulation s313(1)	\$1 250(Individual) \$6 000 (Body Corporate)
Keep a copy of the WHS management plan (and any revisions) for at least 2 years if a notifiable incident occurs on the project.	WHS Regulation s313(2)	\$1 250(Individual) \$6 000 (Body Corporate)
Ensure that a copy of the WHS management plan is readily accessible to any person who is carrying out construction work on the project.	WHS Regulation s313(3)	\$3 600 (Individual) \$18 000 (Body Corporate)
Ensure that a copy of the WHS management plan (and any revisions) is readily accessible for as long as it is required to be kept, for instance if a notifiable incident occurs then the WHS management plan must be readily accessible for 2 years.	WHS Regulation s313(4)	\$1 250(Individual) \$6 000 (Body Corporate)

OBLIGATION	REFERENCE	MAXIMUM PENALTY
<p>Ensure the following:</p> <ul style="list-style-type: none"> • Safe layout of the workplace to allow workers to enter, exit and move around safely; • Work areas have space for work to be carried out without risk to health and safety; • Floors and other surfaces are designed, installed and maintained to ensure safety; • Lighting is appropriate and effective; • Ventilation is appropriate and effective; • Temperature is appropriate; and • Working near essential services is safe for workers. 	<p>WHS Regulation s314(a) Part 3.2 Division 2</p>	<p>\$6 000(Individual) \$30 000 (Body Corporate)</p>
<p>Provide appropriate and adequate first aid equipment and trained first aiders.</p>	<p>WHS Regulation s314(b) Part 3.2 Division 3</p>	<p>\$6 000(Individual) \$30 000 (Body Corporate)</p>
<p>Prepare and maintain an emergency plan including emergency procedures, testing of the emergency procedures, providing information, training and instruction to relevant workers to implement emergency procedures.</p>	<p>WHS Regulation s314(c) Part 3.2 Division 4</p>	<p>\$6 000(Individual) \$30 000 (Body Corporate)</p>
<p>Provide suitable personal protective equipment if identified as a requirement.</p>	<p>WHS Regulation s314(d) Part 3.2 Division 5</p>	<p>\$6 000(Individual) \$30 000 (Body Corporate)</p>
<p>Maintain, repair or replace to ensure personal protective equipment remains clean, hygienic and in good working order.</p>		
<p>Ensure personal protective equipment is used.</p>		
<p>Provide information, training and instruction regarding the proper use, wearing, storage and maintenance of personal protective equipment.</p>		
<p>Ensure that no person at the work place is exposed to a substance or mixture in an airborne concentration that exceeds the exposure standard for the substance or mixture.</p>	<p>WHS Regulation s314(e) Part 3.2 Division 7</p>	<p>\$6 000(Individual) \$30 000 (Body Corporate)</p>

OBLIGATION	REFERENCE	MAXIMUM PENALTY
Ensure that the risks from hazardous atmospheres are managed.	WHS Regulation s314(f) Part 3.2 Division 8	\$6 000(Individual) \$30 000 (Body Corporate)
Ensure that flammable or combustible material is not allowed to accumulate. For instance keeping the amount of flammable or combustible substances at the lowest practicable quantity.	WHS Regulation s314(g) Part 3.2 Division 9	\$6 000(Individual) \$30 000 (Body Corporate)
Ensure that the risks of an object falling which is likely to injure a person if it fell are managed.	WHS Regulation s314(h) Part 3.2 Division 10	\$6 000(Individual) \$30 000 (Body Corporate)
Manage the risk of a person falling from one level to another where the fall is likely to cause injury to the person or another person.	WHS Regulation s314(i) Part 4.4	\$6 000(Individual) \$30 000 (Body Corporate)
Manage risks to health and safety associated with the storage movement and disposal of construction materials and waste at the workplace.	WHS Regulation s315(a)	Individual who is not a person conducting a business or undertaking i.e. not a sole-trader and not an officer of a business or undertaking → 3000 penalty units (\$300,000) or 5 years imprisonment
Manage risks to health and safety associated with the storage at the workplace of plant that is not in use.	WHS Regulation s315(b)	Individual who is a person conducting business or undertaking i.e. a sole-trader or an officer of a business or undertaking → 6000 penalty units (\$600,000) or 5 years imprisonment
Manage risks to health and safety associated with traffic in the vicinity of the workplace that may be affected by construction work carried out in connection with the construction project.	WHS Regulation s315(c)	Body corporate → 30000 penalty units (\$3,000,000)

WHAT IS A WHS MANAGEMENT PLAN?

A plan prepared by a principal contractor before work starts on a Construction Project.

WHAT SHOULD A WHS MANAGEMENT PLAN HAVE IN IT?

- The names, positions and health and safety responsibilities of all persons at the workplace whose positions or roles involve specific health and safety responsibilities in connection with the project.
- The arrangements in place, between any persons conducting a business or undertaking at the workplace where the construction project is being undertaken, for consultation, co-operation and the co-ordination of activities in relation to compliance with their duties under the Act and Regulations.
- The arrangements in place for managing any work health and safety incidents that occur.
- Any site-specific health and safety rules and the arrangements for ensuring that all persons at the workplace are informed of these rules.
- The arrangement for the collection and any assessment, monitoring and review of safe work methods statements at the workplace.

STEP 4

ONGOING REQUIREMENTS

COMMUNICATION

The principal contractor for a construction project must ensure, so far as is reasonably practicable, that each person who is to carry out construction work in connection with the project is before commencing work, made aware of:

- a) The content of the WHS management plan for the workplace; and
- b) The person's right to inspect the WHS management plan.

Site meetings, notice boards and signage are other ways in which critical health and safety information can be communicated.

CONSULTATION AND CO-ORDINATION

Holding meetings or having other ways to consult with various persons throughout a construction project are essential to ensure that health and safety requirements are understood, agreed to and followed.

Some ways to achieve this may include:

- Holding toolbox talks;
- Holding meetings between the Principal Contractor and other businesses, organisations or sole-traders on site;
- Electing health and safety representatives; and
- Forming a health and safety committee on the site.

ESSENTIAL SITE RECORDS

Essential site documentation includes:

- The WHS Management Plan;
- Relevant Safe Work Method Statements for work being performed on site;
- Evidence of consultation i.e. toolbox meeting records;
- Evidence of monitoring the work environment i.e. Inspection Checklists;
- Records of any incidents which occur on site;
- Emergency procedures and emergency contact details;
- Records of training relevant to the work being performed;
- A register of plant which are used on site along with relevant inspection, test or maintenance records; and
- A register of Substances which are used on site along with Safety Data Sheets for each.

SUMMARY OF CONSTRUCTION WORK REQUIREMENTS

Principal Contractor to provide a WHS Management Plan.
Plan to be written so it is easy to understand, signed and dated by the Principal Contractor.
Plan must be available for the duration of the project.
Work is not to commence until the contents of the Plan is discussed with relevant persons and is made available on the site.
Workers to hold a General Construction Induction Training card and participate in any inductions or meetings required by Principal Contractor before commencing work.
Create and communicate Safe Work Method Statements before commencing high risk construction work.
Principal Contractor to ensure that high risk work is undertaken by licensed, competent workers and according to the relevant Safe Work Method Statement.
Safe Work Method Statements received by the Principal Contractor must be kept with the WHS Management Plan and used to monitor the implementation of control measures stated in them.
The control measures of Safe Work Method Statements are to be discussed with workers to ensure that work is performed safely.
If the control measures for managing risks change, the stated control measures within the WHS Management Plan or Safe Work Method Statements need to be amended accordingly.
Amendments of control measures must be communicated to the Principal Contractor and all other tradespersons that will be affected by these changes.

For more information, please contact Stack Masula on 07 3890 1000

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