

Excerpts from OHS Jurisdictions relating to the Employer's general duty of care as at Nov. 2002

<p>ACT</p> <p>OCCUPATIONAL HEALTH AND SAFETY ACT 1989</p>	<p>27 Duties of employers in relation to employees</p> <p>(1) An employer shall take all reasonably practicable steps to protect the health, safety and welfare at work of the employer's employees. Maximum penalty: 250 penalty units.</p> <p>(2) Without limiting subsection (1), an employer contravenes that subsection if the employer fails to take all reasonably practicable steps—</p> <p>(a) to provide and maintain a working environment (including plant and systems of work)—</p> <p>(i) that is safe for the employer's employees and without risk to their health; and</p> <p>(ii) that provides adequate facilities for their welfare at work;</p> <p>or (b) in relation to any workplace under the employer's control—</p> <p>(i) to ensure that the workplace is safe for the employees and without risk to their health; and</p> <p>(ii) to provide and maintain a means of access to and egress from the workplace that is safe for the employees and without risk to their health;</p>
<p>NSW</p> <p>OCCUPATIONAL HEALTH AND SAFETY ACT 2000</p>	<p>8 Duties of employers</p> <p>(1) Employees</p> <p>An employer must ensure the health, safety and welfare at work of all the employees of the employer. That duty extends (without limitation) to the following:</p> <p>(a) ensuring that any premises controlled by the employer where the employees work (and the means of access to or exit from the premises) are safe and without risks to health,</p> <p>(b) ensuring that any plant or substance provided for use by the employees at work is safe and without risks to health when properly used,</p> <p>(c) ensuring that systems of work and the working environment of the employees are safe and without risks to health,</p> <p>(d) providing such information, instruction, training and supervision as may be necessary to ensure the employees' health and safety at work,</p> <p>(e) providing adequate facilities for the welfare of the employees at work.</p> <p>(2) Others at workplace</p> <p>An employer must ensure that people (other than the employees of the employer) are not exposed to risks to their health or safety arising from the conduct of the employer's undertaking while they are at the employer's place of work.</p>

<p>NT</p> <p>WORK HEALTH ACT 2002</p>	<p>29. Duties of employers</p> <p>(1) An employer shall, so far as is practicable -</p> <p>(a) provide and maintain a working environment at a workplace that is safe and without risk to the health or safety of the workers working at the workplace; and</p> <p>(b) ensure that the health and safety of any other person is not adversely affected as a result of the work in which the employer or any worker is engaged.</p> <p>Penalty: In the case of a body corporate - \$125,000. In the case of a natural person - \$25,000</p> <p>(2) Without limiting the generality of subsection (1), an employer contravenes that subsection if he or she fails to -</p> <p>(a) provide and maintain plant and systems of work that are, so far as is practicable, safe and without risk to health;</p> <p>(b) make arrangements for ensuring, so far as is practicable, safety and absence of risk to health in connection with the use, handling, storage and transporting of plant and substances;</p> <p>(c) maintain, so far as is practicable, a workplace under his or her control and management in a condition that is safe and without risk to health;</p> <p>(d) provide such information, instruction, training and supervision to a worker as is necessary to enable the worker to perform his or her work in a manner that is safe and without risk to health; or</p> <p>(e) ensure that visitors to a workplace under his or her control and management are aware of the safety requirements relevant to such visitors and that they abide by those requirements or remove a visitor who refuses or fails to abide by those requirements.</p>
<p>QLD</p> <p>WORKPLACE HEALTH AND SAFETY ACT 1995</p>	<p>Obligations of employers</p> <p>28.</p> <p>(1) An employer has an obligation to ensure the workplace health and safety of each of the employer's workers at work.</p> <p>(2) Also, an employer has an obligation to ensure his or her own workplace health and safety and the workplace health and safety of others is not affected by the way the employer conducts the employer's undertaking.</p> <p>Obligations of persons in control of workplaces</p> <p>30. (1) A person in control of a workplace has the following obligations--</p> <p>(a) to ensure the risk of injury or illness from a workplace is minimised for persons coming onto the workplace to work;</p> <p>(b) to ensure the risk of injury or illness from any plant or substance provided by the person for the performance of work by someone other than the person's workers is minimised when used properly;</p> <p>(c) to ensure there is appropriate, safe access to and from the workplace for persons other than the person's workers.</p> <p>(2) For this section--</p> <p>"person in control" of a workplace does not include the occupier of domestic premises.</p>

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**OCCUPATIONAL HEALTH,
SAFETY AND WELFARE
ACT 1986**

GENERAL PROVISIONS RELATING TO OCCUPATIONAL HEALTH, Duties of employers

19.

(1) An employer shall, in respect of each employee employed or engaged by the employer, ensure so far as is reasonably practicable that the employee is, while at work, safe from injury and risks to health and, in particular-

(a) shall provide and maintain so far as is reasonably practicable-

(i) a safe working environment;

(ii) safe systems of work;

(iii) plant and substances in a safe condition; and

(b) shall provide adequate facilities of a prescribed kind for the welfare of employees at any workplace that is under the control and management of the employer; and

(c) shall provide such information, instruction, training and supervision as are reasonably necessary to ensure that each employee is safe from injury and risks to health.

Maximum penalty: For a first offence-division 2 fine. For a subsequent offence-division 1 fine.

(3) Without derogating from the operation of subsection (1), an employer shall so far as is reasonably practicable-

(a) monitor the health and welfare of the employer's employees in their employment with the employer, insofar as that monitoring is relevant to the prevention of work-related injuries; and

(b) keep information and records relating to work-related injuries suffered by employees in their employment with the employer and retain that information and those records for such period as may be prescribed; and

(c) provide information to the employer's employees (in such languages as are appropriate) in relation to health, safety and welfare in the workplace (including the names of persons to whom the employees may make inquiries and complaints about matters affecting occupational health, safety or welfare); and

(d) ensure that any employee who is to undertake work of a hazardous nature not previously performed by the employee receives proper information, instruction and training before he or she commences that work; and

(e) ensure that any employee who is inexperienced in the performance of any work of a hazardous nature receives such supervision as is reasonably necessary to ensure his or her health and safety; and

(f) ensure that any employee who could be put at risk by a change in the workplace, in any work or work practice, in any activity or process, or in any plant-

(i) is given proper information, instruction and training before the change occurs; and

(ii) receives such supervision as is reasonably necessary to ensure his or her health and safety; and

(g) ensure that any manager or supervisor is provided with such information, instruction and training as are necessary to ensure that each employee under his or her management or supervision is, while at work, so far as is reasonably practicable, safe from injury and risks to health; and

(h) monitor working conditions at any workplace that is under the management and control of the employer; and

(i) ensure that any accommodation, or eating, recreational or other facility, provided for the benefit of the employer's employees while they are at work, or in connection with the performance of their work, and under the management or control of the employer (either wholly or substantially), is maintained in a safe and healthy condition.

<p>TAS</p> <p>WORKPLACE HEALTH AND SAFETY ACT 1995</p>	<p>SECT 9 PART 3 - DUTIES AND OBLIGATIONS RELATING TO WORKPLACE HEALTH AND SAFETY</p> <p>Duties of employers</p> <p>(1) An employer must, in respect of each employee employed by the employer, ensure so far as is reasonably practicable that the employee is, while at work, safe from injury and risks to health and, in particular, must -</p> <ul style="list-style-type: none"> (a) provide and maintain so far as is reasonably practicable - <ul style="list-style-type: none"> (i) a safe working environment; and (ii) safe systems of work; and (iii) plant and substances in a safe condition; and (b) provide facilities of a prescribed kind for the welfare of employees at any workplace that is under the control or management of the employer; and (c) provide any information, instruction, training and supervision reasonably necessary to ensure that each employee is safe from injury and risks to health. <p>Penalty:</p> <p>In the case of -</p> <ul style="list-style-type: none"> (a) a body corporate, a fine not exceeding 1 500 penalty units; or (b) a natural person, a fine not exceeding 500 penalty units.
<p>VIC</p> <p>OCCUPATIONAL HEALTH AND SAFETY ACT 1985</p>	<p>21. Duties of employers</p> <p>(1) An employer shall provide and maintain so far as is practicable for employees a working environment that is safe and without risks to health.</p> <p>(2) Without in any way limiting the generality of sub-section (1), an employer contravenes that sub-section if the employer fails--</p> <ul style="list-style-type: none"> (a) to provide and maintain plant and systems of work that are so far as is practicable safe and without risks to health; (b) to make arrangements for ensuring so far as is practicable safety and absence of risks to health in connexion with the use, handling, storage and transport of plant and substances; (c) to maintain so far as is practicable any workplace under the control and management of the employer in a condition that is safe and without risks to health; (d) to provide adequate facilities for the welfare of employees at any workplace under the control and management of the employer; or (e) to provide such information, instruction, training and supervision to employees as are necessary to enable the employees to perform their work in a manner that is safe and without risks to health.

<p>WA</p> <p>OCCUPATIONAL SAFETY AND HEALTH ACT 1984</p>	<p>Duties of employers</p> <p>19.</p> <p>(1) An employer shall, so far as is practicable, provide and maintain a working environment in which his employees are not exposed to hazards and in particular, but without limiting the generality of the foregoing, an employer shall-</p> <ul style="list-style-type: none"> a. provide and maintain workplaces, plant, and systems of work such that, so far as is practicable, his employees are not exposed to hazards; b. provide such information, instruction, and training to, and supervision of, his employees as is necessary to enable them to perform their work in such a manner that they are not exposed to hazards; c. consult and cooperate with safety and health representatives, if any, and other employees at his workplace, regarding occupational safety and health at the workplace; d. where it is not practicable to avoid the presence of hazards at the workplace, provide his employees with, or otherwise provide for his employees to have, such adequate personal protective clothing and equipment as is practicable to protect them against those hazards, without any cost to the employees; and e. make arrangements for ensuring, so far as is practicable, that - <ul style="list-style-type: none"> i the use, cleaning, maintenance, transportation and disposal of plant; and ii the use, handling, processing, storage, transportation and disposal of substances, at the workplace is carried out in a manner such that his employees are not exposed to hazards. <p>(2) In determining the training required to be provided in accordance with subsection (1) (b) regard shall be had to the functions performed by employees and the capacities in which they are employed.</p> <p>(3) If, at a workplace, an employee incurs an injury, or is affected by a disease, that -</p> <ul style="list-style-type: none"> a. results in the death of the employee; or b. is of a kind prescribed in the regulations for the purposes of this subsection, <p>the employer of that employee shall forthwith notify the Commissioner in the prescribed form giving such particulars as may be prescribed.</p>
<p>Commonwealth of Australia</p> <p>OCCUPATIONAL HEALTH AND SAFETY (COMMONWEALTH EMPLOYMENT) ACT 1991</p>	<p>SECT 16</p> <p>16 Duties of employers in relation to their employees etc.</p> <p>(1) An employer must take all reasonably practicable steps to protect the health and safety at work of the employer's employees. Penalty: in the case of a Government business enterprise—\$100,000.</p> <p>(2) Without limiting the generality of subsection (1), an employer contravenes that subsection if the employer fails to take all reasonably practicable steps:</p> <ul style="list-style-type: none"> (a) to provide and maintain a working environment (including plant and systems of work): <ul style="list-style-type: none"> (i) that is safe for the employer's employees and without risk to their health; and (ii) that provides adequate facilities for their welfare at work; and (b) in relation to any workplace under the employer's control, to: <ul style="list-style-type: none"> (i) ensure the workplace is safe for the employees and without risk to their health; and (ii) provide and maintain a means of access to, and egress from, the workplace that is safe for the employees and without risk to their health;....