

# BSBWHS412

## Assist with Workplace Compliance with WHS Laws

### Learner Guide Instructions

Who is this document for?

The learner.

What is in this document?

- Course information that matches the PowerPoint presentation.
- Review questions.
- Practical assessment instructions for learners.

What do you need to do before you use it for the first time?

1. Rebrand the document.
2. Review the document as part of your validation process.
3. Set the reading and test time limits that are highlighted in pink at the end of the document.

**See the 'Read Me First' document for a complete set of instructions on how to use these resources.**

# LEARNER GUIDE

# BSBWHS412 Assist with Workplace Compliance with WHS Laws

<b>Learner Name:</b>	
<b>Learner ID:</b>	
<b>Learner Contact Number:</b>	
<b>Learner Email Address:</b>	
<b>Date Training Commenced:</b>	

## This Book Contains:

- Course Information.
- Review Questions.
- Practical Assessment overview and Instructions.

# Table of Contents

<b>1.1 Introduction</b> .....	<b>4</b>
1.1.1 Glossary of Terms .....	4
<b>1.2 Access WHS Information and Determine Legal Requirements</b> .....	<b>5</b>
1.2.1 External Sources of WHS Information.....	5
1.2.1.1 Australian and Industry Standards .....	6
1.2.1.2 WHS Legislation .....	6
Finding the Right WHS Legislation .....	6
Harmonisation of WHS Legislation .....	7
Key Elements of the WHS Legislation .....	7
1.2.1.3 Duty of Care .....	8
1.2.1.4 WHS Regulations.....	8
1.2.1.5 Codes of Practice.....	9
1.2.2 Internal Sources of Information .....	9
1.2.3 Accessing and Analysing Information .....	10
Review Questions .....	11
<b>1.3 Confirm WHS Duties, Rights and Obligations</b> .....	<b>13</b>
1.3.1 Duty Holders.....	13
1.3.1.1 Rights and Responsibilities of Employers.....	14
Duties of PCBUs and Employers.....	14
Duties of Managers and Supervisors.....	14
1.3.1.2 Rights and Responsibilities of Workers.....	15
Rights and Responsibilities of Workers .....	15
1.3.1.3 Health and Safety Representatives (HSR) .....	15
Duties of HSR .....	15
Review Questions .....	16
<b>1.4 Seek WHS Advice</b> .....	<b>17</b>
1.4.1 Approaching Legal Advisers.....	17
Review Questions .....	18
<b>2.1 Providing Advice on WHS Legal Rights and Responsibilities</b> .....	<b>19</b>
2.1.1 Assist with Locating Information .....	19
2.1.1.1 WHS Regulators .....	20
2.1.1.2 Role of WHS Inspectors .....	21
2.1.1.3 Strategies for Giving Advice.....	22
Review Questions .....	23
<b>2.2 Assess Workplace WHS Compliance</b> .....	<b>24</b>
2.2.1 Conducting a WHS Audit .....	24
2.2.1.1 Planning and Conducting a WHS Audit .....	25
2.2.1.2 Gathering and Reporting Information .....	25
2.2.1.3 Determining and Documenting Recommendations.....	26
2.2.1.4 Planning a Report.....	27
2.2.1.5 Report Writing .....	28
Review Questions .....	30
<b>2.3 Determine and Address WHS Training Needs</b> .....	<b>32</b>
2.3.1 Determining Training Needs .....	32
2.3.2 Sourcing WHS Training .....	33
2.3.2.1 Accredited Training.....	34
2.3.2.2 Non-Accredited Training.....	34
Review Questions .....	34
<b>2.4 Assist with Maintaining WHS Compliance</b> .....	<b>35</b>
2.4.1 WHS Management Systems .....	36
2.4.2 Policy and Procedure Development .....	37
2.4.2.1 Establishing Processes .....	38
2.4.3 Update Personnel when Changes are Implemented .....	38
2.4.4 Regularly Review Implemented Changes .....	39
Review Questions .....	40

# 1.1 Introduction

This training course is based on the national unit of competency **BSBWHS412 Assist with Workplace Compliance with WHS Laws** and applies to people who work in a broad range of work health and safety (WHS) roles across all industries.

The materials in this course cover:

- ◆ Assisting with determining the legal framework for WHS in the workplace.
- ◆ Assisting with providing advice on WHS compliance.
- ◆ Assisting with establishing and maintaining WHS legislative compliance.
- ◆ Rights and obligations of individuals and parties prescribed in WHS laws and those of WHS regulators.



**NOTE:** The terms Occupational Health and Safety (OH&S) and Work Health and Safety (WHS) are equivalent and generally either can be used in the workplace. The term WHS will be used throughout this training course.

## 1.1.1 Glossary of Terms

The table below details some industry specific terms mentioned throughout this learner guide.

Term	Definition
<b>Person Conducting a Business or Undertaking (PCBU)</b>	<p>A 'person conducting a business or undertaking' (PCBU) replaces the term 'employer'. A PCBU includes all employers, sole traders, principal contractors, unincorporated associations, partnerships and franchisees. Volunteer organisations that also employ people will be PCBUs.</p> <p>A PCBU's primary duty of care is to ensure the health and safety of everyone in the workplace, so far as is reasonably practicable.</p>
<b>Workers/Employees</b>	<p>'Worker' replaces the term 'employee'. It is defined broadly to mean a person who carries out work in any capacity for a PCBU.</p> <p>A 'worker' covers employees, contractors, sub-contractors (and their employees), labour hire employees, outworkers, apprentices, trainees, work experience students and volunteers.</p>
<b>Reasonably Practicable</b>	<p>'Reasonably Practicable' is defined as action that is, or was at a time, reasonably able to be done to help ensure health and safety based on the following factors:</p> <ul style="list-style-type: none"> <li>◆ Chances of the hazard or risk occurring (likelihood).</li> <li>◆ The degree of harm (consequence).</li> <li>◆ The knowledge of persons involved in the situation relating to the hazard or risk and methods of eliminating or controlling it.</li> <li>◆ The availability and suitability of ways to eliminate or control the hazard or risk.</li> <li>◆ The costs involved in taking action to eliminate or control the hazard or risk including consideration of whether the cost involved is inconsistent to the level of risk.</li> </ul>

Term	Definition
<b>Due Diligence</b>	<p>The Work Health and Safety Act 2011 (the WHS Act 2011) imposes a specific duty on PCBUs to exercise due diligence to ensure that the corporation meets its WHS obligations. In short, they have a responsibility to ensure that the PCBU is doing everything it should to ensure health and safety.</p> <p>Due diligence may be demonstrated through the following courses of action:</p> <ol style="list-style-type: none"> <li>1. Acquiring knowledge of health and safety issues.</li> <li>2. Understanding operations and associated hazards and risks.</li> <li>3. Ensuring that appropriate resources and processes are used to eliminate or minimise risks to health and safety.</li> <li>4. Implementing processes for receiving and responding to information about incidents, hazards and risks.</li> <li>5. Establishing and maintaining compliance processes.</li> <li>6. Verifying the provision and use of the resources mentioned in 1–5.</li> </ol>

## 1.2 Access WHS Information and Determine Legal Requirements

To effectively assist with WHS compliance in your workplace, it is important that you access and stay up to date with current Commonwealth, state or territory WHS Acts, legislation, regulations and codes of practice.

Other relevant information includes organisational WHS policies and systems, and documents such as standards, guidance publications and alerts issued by the relevant WHS regulator.

This information will enable you to assist in determining legal requirements in your workplace.



### 1.2.1 External Sources of WHS Information

You will need to collect and review documentation from a range of external information sources, including:



- ◆ Australian and industry standards.
- ◆ Legislation, codes of practice and standards.
- ◆ Australian Safety and Compensation Council.
- ◆ Australian Bureau of Statistics (ABS).
- ◆ Manufacturers' manuals and specifications.
- ◆ Unions and industry bodies.
- ◆ Research literature.
- ◆ Websites.
- ◆ Technical information and data.



External WHS information may be used by employers or employees to confirm compliance and stay up to date with the rules and regulations outlined in standards and legislation including WHS duties and responsibilities.

### 1.2.1.1 Australian and Industry Standards

Australian and industry standards are published documents setting out specifications and procedures for ensuring that products, services and systems are safe and reliable, and consistently perform the way they were intended to.

Standards are not legal documents but many, because of their detail and relevance, are referred to by government and become mandatory.

Some examples of Australian and international standards are:

- ◆ AS2865:2009 – Safe working in a confined space.
- ◆ ISO 31000:2018 – Risk management – Guidelines.
- ◆ AS 1674 – Safety in welding and allied processes.
- ◆ AS/NZS 1715-2009 – Selection, use and maintenance of respiratory protective equipment.
- ◆ ISO 14001:2015 – Environmental management systems.



Where standards and/or codes of practice are referred to, always make sure you are using the most current version.

### 1.2.1.2 WHS Legislation



WHS legislation or acts, form the basis of all requirements for site and equipment safety including materials handling and all other work activities.

Their purpose is to ensure the safety of everyone working on or visiting the site. WHS legislation is managed by states, territories and the Commonwealth, so it is important that you are using the correct legislation for your organisation.

#### Finding the Right WHS Legislation

You can access information about your state or territory's WHS authority, including the current legislation, by:

- ◆ Going to Safe Work Australia website.
- ◆ Conducting an internet search for "WHS Act" and your state or territory e.g. "WHS Act Queensland".
- ◆ Asking your workplace Health and Safety Representative (HSR).



## Harmonisation of WHS Legislation

In response to industry calls for greater national consistency, the Commonwealth, states and territories agreed to implement nationally harmonised WHS legislation to commence on 1 January 2012.

While not all Australian states and territories have implemented the model WHS legislation, it is important to be aware of these changes as all states and territories will eventually implement them.

Harmonisation aims to develop consistent, reasonable and effective safety standards and protections for all Australian workers through uniform WHS laws, regulations and codes of practice.

## Key Elements of the WHS Legislation

The following key elements of WHS legislation will impact the way you do your job, and the responsibilities of your workplace:

- 1** There is a primary duty of care requiring **persons conducting a business or undertaking (PCBU)** to ensure, so far as is **reasonably practicable**, the health and safety of **workers** and others who may be affected by the carrying out of work.
- 2** A requirement that **officers** of corporations and unincorporated bodies exercise **due diligence** to ensure compliance.
- 3** **Workers** must exercise reasonable care that their acts or omissions do not adversely affect the health and safety of persons at a workplace.

The legislation also outlines requirements for:



- ◆ Reporting of notifiable incidents.
- ◆ Licences, permits and registrations (e.g. for persons engaged in high risk work or users of certain plant or substances).
- ◆ Provision for worker consultation, participation and representation at the workplace.
- ◆ Provision for the resolution of health and safety issues.
- ◆ Protection against discrimination.



Many specific details relating to WHS will be negotiated within the workplace in accordance with the legislation.

It is important that you speak with your HSR or supervisor for more information on how these elements will affect your day-to-day operations, or if you have any concerns relating to health and safety.

New Regulations and Codes of Practice have been developed for specific industries and practices to help implement the requirements of the WHS legislation in workplaces across Australia.

### 1.2.1.3 Duty of Care

Duty of care is a legal obligation to adhere to a standard of reasonable care when performing acts that have the potential to harm others.

Employers (PCBUs) have a duty of care to protecting workers and visitors from physical hazards such as slippery floors or heavy loads, as well as social and/or behavioural hazards such as workplace bullying or violence.

Employees have a duty of care to conduct their work role in a safe manner, following all WHS policies and procedures and reporting hazards to the relevant personnel.

Everyone on a worksite has a legal responsibility under duty of care to do everything reasonably practicable to protect others from harm. This is done by complying with safe work practices, including activities that require licences, tickets or certificates of competency, or any other relevant state and territory WHS requirements.



### 1.2.1.4 WHS Regulations

WHS Regulations supplement WHS acts by providing more detailed information on duties that apply to specific hazards, other procedures and obligations.

The regulations cover general requirements for hazard identification, risk assessment and risk controls for high risk areas, such as:



- ◆ Plant and equipment.
- ◆ Electrical safety.
- ◆ Manual handling.
- ◆ Confined spaces.
- ◆ Occupational noise.
- ◆ Storage and handling of dangerous goods.
- ◆ Working at heights.
- ◆ Driver fatigue.





### 1.2.1.5 Codes of Practice

Codes of practice are a set of ethical and safety principles guiding the way the organisation operates. They are not mandatory, like laws, but are voluntary codes. They provide practical guidance on how to meet the standards set out in the WHS Act and the WHS Regulations.

They can also be referred to by an inspector when issuing an improvement or prohibition notice.

You can access codes of practice relevant to the WHS Act on the Comcare website.

Alternatively, your organisation might have its own code of practice that it expects you to operate within.

It is recognised that equivalent or better ways of achieving the required WHS outcomes may be possible. For that reason, compliance with Codes of Practice is not mandatory providing that any other method used provides an equivalent or higher standard of workplace health and safety than suggested by the Code of Practice.



### 1.2.2 Internal Sources of Information

It is important that you know what is happening within your workplace.

As well as keeping up to date with external information, you need to regularly review internal documentation.

Information can be gained from a range of internal sources, including:



- ◆ WHS reports, including workplace inspections, hazard and incident reports, technical reports, consultations and observations.
- ◆ WHS policies and procedures.
- ◆ Organisational data such as insurance records, incident investigations, enforcement notices and actions, workers' compensation data, WHS performance indicators, audits.
- ◆ Safety Data Sheets (SDS) and registers.
- ◆ Manufacturers' manuals.
- ◆ Job Safety Analysis (JSAs).
- ◆ Risk assessments (past and present).
- ◆ Safety handbooks.
- ◆ Work instructions.

Internal information sources provide a wealth of knowledge on the specific policies and procedures within the organisation. Some examples of use of internal information sources include understanding procedures for reporting incidents at work, safe operation of machinery and individual position descriptions.

## 1.2.3 Accessing and Analysing Information

You can access internal and external sources of WHS information through a range of procedures.



This could include:

- ◆ Asking your Health and Safety Representative.
- ◆ Speaking to your organisation's safety team and/or management.
- ◆ Organisational intranet and internal databases.
- ◆ Organisational manuals, policies and procedures.
- ◆ Organisational libraries – hard copy or digital.
- ◆ Conducting an internet search.
- ◆ Going to your local public library to find hard copy publications.
- ◆ Contacting your union or industry body.

You can source information and documents from hard copies or electronic files (websites, intranet, databases, emails, cloud storage). Data and information may also be found on removable storage devices such as USB sticks, discs, memory cards and external hard drives.

Information is likely to change over time, so to ensure accuracy it is important to be mindful of when it was published and its current relevance.

Make sure you follow all processes and procedures for accessing and retrieving information in your organisation, including the use of various technology and communications media.



When reading WHS information documents, try:

- ◆ Scanning through them first to get a rough idea of what they are about.
- ◆ Pay close attention to headings as they will help guide you through.
- ◆ Take the time to carefully read through all the relevant documentation or read summaries or plain English versions if they are available.
- ◆ Remove distractions such as noise or interruptions when you are reading.
- ◆ Conduct an internet search for legislation or codes of practice to find information about them to help put it in context.
- ◆ Make notes about any points you aren't clear about and then clarify them later.

You also need to be aware of any confidentiality requirements that may apply. It is necessary that any personal information you acquire during your work activities be kept confidential. This could include information relating to injuries or illnesses, occupationally acquired or not.



The information and documents you access, interpret and analyse will help you to understand the relationship between WHS Acts, regulations, codes of practice, standards and guidance material. This in turn will enable you to assist in determining the legal requirements in your workplace. Keeping up to date with legislation and related documentation – and monitoring changes – will involve reviewing various websites on a regular basis.

If you have any difficulties interpreting requirements or you don't understand something, speak to your supervisor or team leader.

## Review Questions

<b>1.</b>	What are manufacturers manuals, research literature and Australian and industry standards sources of?	<input type="checkbox"/>
<b>2.</b>	What is the purpose of WHS legislation and acts?	<input type="checkbox"/>
<b>3.</b>	Who could you speak with if you have any concerns relating to health and safety?	<input type="checkbox"/>

4.

What is meant by "duty of care"?

5.

What are codes of practice?

6.

What are WHS policies and procedures, Incident investigations and Safety Data Sheets sources of?

**7.**

Why is it important to be mindful of information sources date of publication and its current relevance?



## 1.3 Confirm WHS Duties, Rights and Obligations



Having identified the legislative requirements for your organisation, you need to assist in identifying and confirming any roles, responsibilities or requirements for individuals and parties within the organisation, and other stakeholders.

### 1.3.1 Duty Holders

The following people may have specific WHS duties, rights and obligations:

- ◆ Duty holders as specified in WHS Acts, such as:
  - ◆ PCBUs or their officers.
  - ◆ Self-employed persons.
  - ◆ Persons in control of workplaces.
  - ◆ Workers.
  - ◆ Other persons at a workplace.
- ◆ WHS representatives, inspectors, regulators, committees.
- ◆ Contractors and subcontractors.
- ◆ Customers.
- ◆ Suppliers.
- ◆ Unions.
- ◆ Manufacturers, importers and suppliers of substances.
- ◆ WHS entry permit holders.





Any individual who has a responsibility under WHS legislation may be referred to as a duty holder. More than one person can share the same duty, for example fire wardens or first aid providers.

Everyone in a workplace has legislative WHS duties and responsibilities and these cannot be transferred from one individual to another.

If you are unsure of what your WHS duties are then you should seek clarification by speaking to your manager, supervisor or health and safety representative (HSR).

### 1.3.1.1 Rights and Responsibilities of Employers

WHS legislation requires employers, including managers, supervisors and PCBUs, to protect anyone at the workplace, whether workers, contractors, or members of the public, against any risks to their health or safety by eliminating or reducing risks as far as practicably possible.

Specific legislative requirements may also apply to PCBUs in certain industry types or locations.



#### Duties of PCBUs and Employers

- ◆ Monitor the health of workers to minimise risks and WHS issues.
- ◆ Exchange information about WHS risks and controls with WHS representatives and workers.
- ◆ Work with WHS representatives and workers to resolve WHS issues within the workplace in accordance with the agreed procedure.

#### Duties of Managers and Supervisors

- ◆ They follow health and safety procedures.
- ◆ They implement health and safety procedures in their areas of control.
- ◆ They implement, monitor and evaluate risk control measures.
- ◆ Any workers under their control are provided with adequate information, instruction and training to effectively and safely complete their work tasks.



### 1.3.1.2 Rights and Responsibilities of Workers

Workers have a duty to take reasonable care for their own health and safety and that of other people who may be affected by the PCBU's acts or omissions in the workplace.

Workers must also cooperate with the PCBU and follow all reasonable directions given by them or their representative to enable compliance with the law.

#### Rights and Responsibilities of Workers

- ◆ Be represented by a WHS representative when raising WHS issues or have a defined system so that there is communication with management to resolve these issues.
- ◆ Follow measures put in place to protect their safety, such as using and caring for personal protective equipment (PPE) or follow safe operating procedures.
- ◆ Exchange information about WHS risks and controls with their PCBU and WHS representative.
- ◆ Work with their PCBU to resolve WHS issues within the workplace in accordance with the agreed procedure.



### 1.3.1.3 Health and Safety Representatives (HSR)



Health and Safety representatives have the right to be consulted on health and safety matters and to represent workers in relation to WHS issues.

A WHS committee is a group of people on a worksite or in your company who decide on workplace safety issues. They are responsible for looking at safety issues and suggesting ways of improving work practices, use of equipment, communication and training of staff. They should meet every 6 months.

#### Duties of HSR

- ◆ Consult with and represent workers in relation to WHS issues.
- ◆ Provide information and training.
- ◆ Attend investigations.
- ◆ Attempt to resolve WHS issues for those workers they represent.



PCBUs and workers may request intervention by external parties such as WHS authorities or inspectors when health and safety issues cannot be resolved internally.