



**ACT**  
Government

Chief Minister and Treasury

Policy Statement  
Policy Number: WHS-03-2013  
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# ACT PUBLIC SERVICE

## ***WORK HEALTH & SAFETY ACT 2011- RESPONSIBILITIES***

### **1. PURPOSE**

The purpose of this policy is to articulate the key responsibilities of Directors-General, executives, managers, supervisors and workers in the ACT Public Service (ACTPS) pursuant to the *Work Health and Safety Act 2011* (WHS Act).

This policy is provided as a supplement to all ACTPS existing and prospective whole-of-government work safety and injury management policies and must be read in conjunction with such policies.

This policy is not exhaustive and does not set out every role and responsibility for Directorates. Directorates are expected to gain familiarity with the provisions of the WHS Act which relate specifically to their function.

### **2. APPLICATION**

This policy applies to all Directorates and entities, and any person considered to be a worker for the ACT Government under the WHS Act, or who has a duty under the WHS Act.

### **3. ROLES & RESPONSIBILITIES**

In accordance with the WHS Act, Directorates are required to provide and maintain healthy and safe workplaces on behalf of the Territory by eliminating risks where it is reasonably practicable<sup>1</sup> to do so, and take reasonable steps to minimise risks that cannot be eliminated.

<sup>2</sup> Directorates have a constructive role to play in promoting improvements to work health and safety practices.<sup>3</sup> Directorates are to ensure, so far as is reasonably practicable, the health and safety of workers while the workers are at work.<sup>4</sup> In relation to 'other persons', Directorates must ensure, so far as is reasonably practicable, that the health and safety of other persons is not put at risk from work carried out by the Directorate.<sup>5</sup>

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<sup>1</sup> Refer to WHS Act, s 18 on the meaning of reasonably practicable.

<sup>2</sup> WHS Act, s 17.

<sup>3</sup> WHS Act, s 3(1)(c).

<sup>4</sup> WHS Act, s 19(1).

<sup>5</sup> WHS Act, s 19(2).

## **a) Directors-General**

As far as is reasonably practical, Directors-General must exercise due diligence to ensure work environments are safe and healthy for workers, clients and visitors, and that Directorates comply with whole-of-government policies on work health and safety.

In this context, due diligence means taking reasonable steps to:

1. acquire and keep up-to-date knowledge of work health and safety matters;
2. understand the nature and operations of the work and associated hazards and risks;
3. ensure the Directorate has available appropriate resources and processes to eliminate or minimise risks to health and safety from work carried out as part of the Directorate's operations;
4. ensure the Directorate has appropriate processes for receiving and considering information regarding incidents, hazards and risks and responding in a timely way to that information;
5. ensure the Directorate has, and implements, processes for complying with any duty or obligation of the Directorate under the WHS Act; and
6. verify the provision and use of the resources and processes referred to in paragraphs (c) to (e) above.

Directors-General must, so far as is reasonably practicable:

- ensure they are updated regularly on incidents, hazards and risks and respond in a timely way to that information;
- ensure they have an appropriate governance structure in place to enable work health and safety to be properly attended to;
- plan, resource, implement and monitor local procedures to support ACTPS whole-of-government policies;
- have people who are appropriately qualified and accountable for work health and safety;
- implement a well-documented system for identifying, reporting, and responding to all actual and potential hazards in the workplace;
- ensure safe practices, procedures and controls are in place that are specific to the hazards of their Directorate that either meet or exceed the requirements set out in the WHS legislation – including relevant approved Codes of Practice:
  - includes providing and maintaining safe use, handling, storage and transport of plant structures and substances and a safe system of work;<sup>6</sup>
- ensure those safe practices, procedures and controls referred to above are used and regularly monitored;
- ensure that work health and safety is part of the Directorate's internal audit committee's terms of reference;
- implement a written register or record of decisions that impact the undertakings of the Directorate and ensure that health and safety matters are actively considered in the decision making;

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<sup>6</sup> WHS Act, s 19(3)(b), (c) and (d).

- where necessary, provide ongoing instruction and training to supervisors, managers and workers;<sup>7</sup>
- communicate regularly with workers about foreseeable health and safety risks, including the implications of all ACTPS whole-of-government policies;<sup>8</sup>
- allocate adequate time and resources for health and safety, including health and safety committees;
- report all injuries and notifiable incidents as required by law;
- monitor and audit health and safety programs every three years (timeframe dependant on level of risk) basis;
- monitor the health of workers and conditions of the workplace to prevent illness or injury to workers arising from the performance of their work;<sup>9</sup> and
- ensure compliance with ACTPS whole-of government policies.

#### **b) Executive, Managers and Supervisors**

Executives, managers and supervisors have responsibility to exercise due diligence in assisting Directors-General with their obligations including the implementation of ACT whole-of-government policies by ensuring, so far as is reasonably practicable, that:

- collaboration, consultation, cooperation and coordination of activities with other duty holders who share responsibilities for the same work health and safety matter;
- workers are aware of, and understand their responsibilities under ACT whole-of-government policies and their related procedures;
- workers and Health and Safety Representatives are consulted in relation to and in accordance with ACTPS policy on consultation;
- workers are provided with necessary induction training;
- potential hazards and risks to work safety are identified, assessed, and reported and measures are implemented to eliminate, control or manage those risks in accordance with ACTPS policy on work health and safety risk management;
- where relevant, workers are provided with appropriate care and support; and
- emergencies are responded to promptly and recorded and logged in accordance with the ACTPS policy on accident/incident reporting.

#### **c) Workers**

ACT Government workers have a responsibility to ensure that while at work they:

- take reasonable care for their own health and safety; and
- take reasonable care that their acts or omissions do not adversely affect the health and safety of other persons;
- comply and cooperate with ACT Government and Directorate policies and procedures relating to work health and safety;

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<sup>7</sup> WHS Act s 19(3)(f).

<sup>8</sup> WHS Act. s 47.

<sup>9</sup> WHS Act s 19(3)(g).

- comply with any reasonable instruction given by the Directorate in exercising their compliance with the WHS Act;
- seek to prevent and report potential hazards and risks;
- attend appropriate training as required or directed by their employer: and
- report incident and safety concerns to Managers or Health and Safety Representatives.

**d) Other persons**

While at a workplace, other persons, such as clients and visitors to the workplace, must:

- take reasonable care for their own health and safety; and
- take reasonable care that their acts or omissions do not adversely affect the health and safety of other persons; and
- comply, so far as the person is reasonably able, with any reasonable instruction that is given.<sup>10</sup>

**4. WORK HEALTH AND SAFETY ACT 2011 CODES OF PRACTICE**

The WHS Act provides for codes of practice which are approved under s 274. An approved code of practice is a practical guide for achieving the standards of health, safety and welfare required under the WHS Act and the Work Health and Safety Regulation 2011 (the Regulation). An approved code of practice applies to anyone who has a duty of care in the circumstances described in the code.

Approved codes of practice are published on the ACT Legislation Register (<http://www.legislation.act.gov.au/a/2011-35/ni.asp>). In addition to the responsibilities set out above, Directorates must ensure managers, supervisors and Health & Safety Representatives are aware of and have access to approved codes of practice that are applicable to their work.

An approved code of practice is admissible as evidence in proceedings relating to an alleged breach of a provision of the WHS Act or Regulation.

Courts may have regard to an applicable approved code of practice as evidence of what is known about a hazard or risk, risk assessment or risk control to which the code relates.

Courts may also rely on a code in determining what actions are reasonably practicable in the circumstances to which the code relates.

**4.1 Compliance with Codes of Practice**

The *Work Health and Safety Act* (Section 274) provides information on how the Act and associated Regulation can be achieved by providing codes of practice for certain types of work. These codes of practice provide guidance on achieving compliance with the WHS Act and Regulation and each business unit should consider the applicability and relevance of each code to the work of the business and adopt the relevant code(s) accordingly.

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<sup>10</sup> WHS Act, s 29.

In many cases, other codes of practice have been developed by industry to assist businesses to develop and adopt additional, equivalent or higher standard of work health and safety than the codes specified in Section 274. Director-Generals (or People & Performance Council) should approve the use of these alternative codes and business units should then adopt these codes.

In addition, some types of work will be require the adoption of Australian Standards and these should be identified and followed by workers and contractors.

Similarly the nature of certain work requires the creation of standard operating procedures which provides both technical and safety information for the performance of works. These standard operating procedures must be approved by the relevant delegated individuals and adopted by workers including contractors.

The development, adoption and implementation of relevant codes and associated procedures must be included in risk registers and Safe Work Method Statements, if appropriate.

## 5. GLOSSARY

**“Worker”** refers to:

- public employees of the ACTPS (as defined in the PSM Act);
- contractors or sub-contractors;
- an employee of a contractor or subcontractor;
- an employee of a labour hire company who has been assigned to work in the business;
- an outworker;
- an apprentice or trainee, or student undertaking work experience;
- volunteers; and
- person of a prescribed class for the purposes of the WHS Act.

**“Workplace”** means a place where work is carried out for a business or undertaking and includes any place where a worker goes, or is likely to be, while at work (includes vehicle, vessel, aircraft or other mobile structure).

**“Work Group”** means the group of all of the employer’s workers, and a group which is established under subdivision 5.3.2 of the WHS Act.

## 6. REFERENCES AND LINKS

Under section 19 of the WHS Act the Territory has a duty of care in relation to the provision and maintenance of safe and healthy working environments for workers, clients and visitors.

Sections 28 and 29 of the WHS Act require workers (and other persons at the workplace) to take reasonable care for their own health and safety, cooperate and comply with reasonable instructions and policies or procedures, and to ensure that their actions do not adversely impact the health and safety of other persons.

While members of the public are not subject to internal ACT Government policy, Directorates must take into account the role of, and risks to, members of the public in relation to work health and safety at ACT Government workplaces.

ACT Public Sector Work Safety and Injury Management Policies

<http://www.cmd.act.gov.au/governance/public/wpsafety/OHSPolicies>

ACTPS Workplace Health and Safety Management Framework

<http://sharedservices/actgovt/WHS/SafetyMgt/>

*Work Health and Safety Act 2011*

<http://www.legislation.act.gov.au/a/2011-35/default.asp>

*Work Health and Safety Regulation 2011*

<http://www.legislation.act.gov.au/sl/2011-36/default.asp>

## **7. REVIEW**

This policy will be reviewed after three (3) years unless there is a requirement for earlier review.

## **8. APPROVAL AUTHORITY**

This policy is approved by Andrew Kefford, Commissioner for Public Administration, 26 July 2013.

Document Name: WHS Policy – Responsibilities under the *Work Health and Safety Act 2011*

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