



What is a “Reasonably Foreseeable Hazard”? - Part 2

This WHS article is a continuation of the first article, *What is a “Reasonably Foreseeable Hazard?”*. In Part 2 we have set out a number of actions that PCBU's must or could take to identify “reasonably foreseeable hazards” in their workplace as required by WHS Regulation 34.

Take Reasonable Actions to Foresee

What should a reasonable person who has a duty to manage WHS risks do about being able to identify “reasonably foreseeable hazards” and their risks to health and safety. Relevant information and knowledge are obviously needed in order to foresee. So it follows that a duty holder would need to take all reasonable steps to gather all the relevant information and knowledge about a known hazard that is available, or that may reveal a hazard in their workplace that was not previously known.

Reasonable actions to gain this information and knowledge to foresee hazards and their risks would include:

1. Doing regular inspections of the workplace to check known hazards and watch out for previously unknown hazards.
2. Consult with workers about existing or other possible hazards.
3. Doing a hazard and risk analysis of a job or a work process using tools such as a Job Safety Analysis or Safe Work Method Statement to identify hazards and their risks.
4. Stay up to date about hazards or concerns about hazards and possible hazards in your industry using information from experts, health and safety regulators such as SafeWork NSW, industry associations, plant and equipment suppliers, etc. The reasonable duty holder makes sure they have up to date, credible, and accepted knowledge about hazards in their industry and workplace.
5. The duty holder's knowledge base would include what hazards are recognised in WHS Codes of Practice that apply to their workplace. Notice that the Foreword in every WHS Code of Practice issued by SafeWork Australia, and adopted by SafeWork NSW, includes the following paragraph about hazards and court proceedings:

“Codes of practice are admissible in court proceedings under the WHS Act and Regulations. Courts may regard a code of practice as evidence of what is known about a hazard, risk or control and may rely on the code in determining what is reasonably practicable in the circumstances to which the code relates.”

A PCBU who can show they have implemented the recommendations in a relevant Code of Practice is usually on safe ground in a court of law.

6. Check for any WHS law that requires any of your workers or contractors to hold a license or training qualifications eg. a licence to operate a forklift.

The actions listed above are intended as examples of action and you may want to expand or amend the list to cover the circumstances in your workplace.

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