



Minimise WHS Risk to Minimise Financial Loss

Because of your role and responsibilities in your organisation you may sometimes need to seek approval for a WHS Budget or WHS expenditure that you propose.

This article has been written to hopefully suggest information that you find useful and could consider including in your WHS expenditure proposal. You might already do this.

We suggest that the most persuasive reason for spending money on WHS is because it minimises WHS risk and/or is necessary to comply with WHS law. Minimising the WHS risk will minimise losses such as; being prosecuted, workers compensation costs, lost production, injured workers' suffering, and so on.

For example: Glencore in Queensland, recently identified that the mineral oil in the transformers in their Mt Isa copper mine was a fire risk. They used the hierarchy of control as required by clause 36 of the WHS Regulation to minimise the risk so far as is reasonably practicable. They replaced the mineral oil with a biodegradable, synthetic oil which almost completely eliminated that fire risk. In so doing they have further minimised the risk of loss from fire damage and workers' health and safety and complied with WHS law.

You may have areas in your workplace where the hierarchy of control needs to be revisited to ensure that WHS risks are minimised so far as is reasonably practicable. Time and money spent on these areas would be well spent and would minimise the risk of loss in the future.

Eliminate or Minimise WHS Risks

The majority of WHS risks and expenses that you need to deal with would probably be for the matters within sections 17, 18, 19 and 27 of the WHS Act. A PCBU must eliminate or minimise all risks to health & safety so far as is reasonably practicable.

Section 19 WHS Act: PCBUs Primary Duty of Care.

Section 19 (3) says that a PCBU must ensure so far as is reasonably practicable that:

- the work environment is without risks to health and safety
- the plant and structures are safe
- the systems of work are safe
- the use, handling, and storage of plant, structures, and substances are safe
- there are adequate facilities for the welfare at work of workers
- information, training, instruction or supervision that is necessary to protect all persons from risks to their health and safety arising from work is provided
- that the health of workers and the conditions at the workplace are monitored for the purpose of preventing illness or injury of workers

Section 27 WHS Act: Due Diligence and the PCBU's Officers

Section 27 of the WHS Act covers the duty that applies to Officers of the PCBU. The due diligence that Officers must exercise includes the following step:

"(e) to ensure that the person conducting the business or undertaking has, and implements, processes for complying with any duty or obligation of the person conducting the business or undertaking under this Act,

Example. For the purposes of paragraph (e), the duties or obligations under this Act of a person conducting a business or undertaking may include:

- *reporting notifiable incidents,*
- *consulting with workers,*
- *ensuring compliance with notices issued under this Act,*
- *ensuring the provision of training and instruction to workers about work health and safety,*
- *ensuring that health and safety representatives receive their entitlements to training."*

Financial Penalties: Not Complying with a Health & Safety Duty

Apart from the safety and legal compliance factors above there are the financial penalties for not complying with a health and safety duty. Section 33 of the WHS Act states that the maximum penalty for a corporate PCBU can be \$500,000 and a maximum of \$100,000 for an Officer.

Examples of Other Compliance Requirements

1. A PCBU has to consult with workers and the maximum penalty for not doing so is \$100,000 for a corporate PCBU (section 47 – 49 WHS Act)
2. If an HSR wants to be trained as a HSR then the PCBU is required to have them trained as soon as practicable within 3 months of their election. Maximum penalty for non-compliance is \$50,000 for a corporate PCBU (section 72 WHS Act).

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