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What or Who is a PCBU?

We talk with people about WHS every day and it is clear that a significant number of people have an uncertain or incomplete concept of what or who is a PCBU.

This article is written to help clarify what or who is a PCBU - an attempt to clear any fog so that those who need to know, such as the PCBU, Officers, Managers, Supervisors and general employees, can have certainty on the matter.

The words, *“person conducting a business or undertaking”* (PCBU), appear frequently in the WHS Act because; the PCBU has the primary duty of care for work health and safety in a workplace, and has numerous WHS obligations to fulfil to satisfy the requirements of the WHS Act. The PCBU has the ultimate responsibility for WHS and cannot pass that responsibility on to someone else.

A Company is not a person – Why is it a PCBU?

In laws about interpreting legislation, the term “person” means more than just an individual human being. It is interpreted to also include a company, an unincorporated association, and a partnership. (No wonder some people get confused about PCBU.) So a company fits the meaning of a PCBU because it is a *“person conducting a business or undertaking”*.

Is the General Manager of a Company a PCBU?

An Executive who is high in the chain of authority in an organisation, such as a General Manager or Chief Executive Officer, is obviously a person so could they be a PCBU? They are persons but Section 5(4) of the WHS Act excludes them from the definition of PCBU.

Is a Self - Employed Person a PCBU?

Yes a self - employed person is a PCBU. He or she is a recognised legal person and has not been excluded from the meaning of a *“person conducting a business or undertaking”* in Section 5 of the WHS Act.

Plain English Meaning of PCBU

A *“person conducting a business or undertaking”* (PCBU) is a legal term under WHS laws for individuals, businesses, government authorities and other organisations that are conducting a business or an undertaking.

Is There a List of What or Who is a PCBU?

Yes there is. You can find a list on the website of SafeWork NSW and SafeWork Queensland. These lists cover the majority of instances where a person, company or other organisation is a PCBU.

A PCBU includes;

- a company
- partners in a partnership
- sole traders and self employed persons
- an association if it has one or more employees
- a volunteer association that employs anyone to carry out work
- a government department
- a public authority (including local government councils)

A PCBU does not include:

- An elected member of a local authority
- A volunteer association that does not employ anyone
- A strata body corporate responsible for common areas used only for residential purposes
- A person who is engaged solely as a worker or an officer

Safe Work Australia Interpretive Guideline

Safe Work Australia has a 4 page publication on their website about the meaning of “person conducting a business or undertaking”. You may find that helpful for your situation. It is called *Interpretive Guideline - Model WHS Act The Meaning of “Person Conducting a Business or Undertaking”*.

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