

## QUICK FACT SHEET

### **Module 4: Compliance and enforcement measures**

#### **Role of the regulator**

Every state has its own regulator to administer WHS laws, even though the laws are now substantially the same in most jurisdictions. The regulator:

- advises the Minister on the effectiveness of the Act
- monitors and enforces compliance with the Act
- advises and informs duty holders and the community about work health and safety matters
- collects, analyses and publishes statistics about work health and safety
- fosters a cooperative, consultative relationship between duty holders and the persons to whom they owe duties and their representatives about work health and safety matters
- promotes and supports education and training on work health and safety matters
- engages in, promotes and coordinates the sharing of information to achieve the object of the Act, including the sharing of information with a corresponding regulator
- conducts and defends proceedings under this Act before a court or tribunal

#### **Power to request information**

The regulator may issue a notice if it has reasonable grounds to believe that a person or corporation can give information, documents or evidence about a suspected breach.

#### **Health and safety inspectors**

The regulator can appoint a health and safety inspector. Inspectors:

- provide information and advice about compliance with the WHS Act
- help to resolve WHS issues; issues related to workplace access by assistants of health and safety representatives; and issues related to the exercise of rights of entry by WHS permit holders
- review disputed provisional improvement notices
- issue notices requiring compliance with the WHS Act
- investigate breaches and assist the regulator in prosecuting offences
- attend coronial inquests in respect concerning work-related deaths and examine witnesses

## **Power of inspectors**

Some of the powers inspectors have include:

- Powers of entry
- Powers upon entry
- Powers regarding documents
- Powers of questioning
- Powers of seizure

## **Improvement notices**

An inspector may issue three types of notices to both companies and individuals, depending on the type of work health and safety duty that the inspector believes has been breached. These are:

- improvement notices
- prohibition notices
- non-disturbance notices

## **Enforceable undertakings**

A person who has breached (or is thought to have breached) WHS laws may send the regulator a written undertaking proposing to take particular measures. If the undertaking is accepted by the regulator, it will become an enforceable undertaking. This means that the person making the undertaking must comply with it and can be penalised for breaching it.

## **Court orders for WHS breaches**

If a court finds an individual or company guilty, they can make one or more of the following orders in addition to any fine, imprisonment or other penalty.

- Adverse publicity orders
- Training orders
- Restoration orders
- Court-ordered WHS undertaking
- Injunction
- WHS project orders