

QUICK FACT SHEET

Module 2: Workers' rights and obligations

A worker's duties of care

Every worker owes a duty to take reasonable care for the health and safety of themselves and others at the workplace – no matter whether it involves co-workers or other persons at the workplace.

You should play an active role in identifying workplace hazards and take steps to reduce, isolate or remove them.

This may mean doing something yourself – for example, moving a box out of a corridor where someone might trip over it or telling someone else about a hazard.

A worker's right to cease unsafe work

You may cease or refuse to carry out work if you have a reasonable concern that the work will expose you to a serious risk to your health or safety, due to an immediate or imminent exposure to a hazard. If you cease work on that basis, then you must notify the PCBU as soon as practicable and must carry out any suitable alternative work that is safe and appropriate.

Discriminatory conduct

Under work health and safety law, it is prohibited to discriminate against a person for a number of reasons. These “prohibited reasons” occur if the person:

- is a health and safety representative or a member of a health and safety committee (or proposes to be)
- exercises a power or performs a function as a health and safety representative
- has exercised a power under the WHS Act
- has given information to another person while performing an obligation under the WHS Act
- raises a concern or issue about work health and safety
- refrains from exercising a power or performing a function under the WHS Act
- is taking action to make a person comply with their duties or obligations under the WHS Act

It is also an offence to instruct, encourage, authorise or assist another person to engage in discriminatory conduct.

Coercion

You are not allowed to coerce (force) another person to:

- exercise a power given to them by the WHS Act
- not exercise a power given to them by the WHS Act
- perform a function assigned to them under the WHS Act
- not perform a function assigned to them under the WHS Act

It is also an offence to threaten to do something to coerce a person to do the things set out above.

Misrepresentation

It is an offence for a person to intentionally or recklessly mislead another about the rights or obligations provided for under the WHS Act.

WHS offences

A person commits a category 1 offence if they:

1. owe a health and safety duty
2. expose an individual to a risk of death, serious injury or illness through their conduct
3. are reckless to this risk

A person commits a category 2 offence if they:

1. owe a health and safety duty
2. fail to comply with that duty
3. expose an individual to a risk of death, serious injury or illness

A person commits a category 3 offence if they:

1. owe a health and safety duty
2. fail to comply with that duty