

## Duty Holder

A duty holder is a person who has a duty under HSWA.

There are four duty holders:

- [PCBUs](#)
  - **person conducting a business or undertaking or PCBU—**
    - means a person conducting a business or undertaking—
    - whether the person conducts a business or undertaking alone or with others; and
    - whether or not the business or undertaking is conducted for profit or gain; but does not include—
      - a person to the extent that the person is employed or engaged solely as a worker in, or as an officer of, the business or undertaking;
      - a volunteer association\*;
      - a statutory officer to the extent that the officer is a worker in, or an officer of, the business or undertaking;
      - a person, or class of persons, that is declared by regulations not to be a PCBU for the purposes of the Act or any provision of the Act.

\* **volunteer association** means a group of volunteers (whether incorporated or unincorporated) working together for 1 or more community purposes where none of the volunteers, whether alone or jointly with any other volunteers, employs any person to carry out work for the volunteer association.

- [officers](#)
  - in relation to a PCBU,— means, if the PCBU is—
    - a company, any person occupying the position of a director of the company by whatever name called;
    - a partnership (other than a limited partnership), any partner:
    - a limited partnership, any general partner;
    - a body corporate or an unincorporated body, other than a company, partnership, or limited partnership, any person occupying a position in the body that is comparable with that of a director of a company; and
    - includes any other person occupying a position in relation to the business or undertaking that allows the person to exercise significant influence over the management of the business or undertaking (for example, a chief executive); but
    - to avoid doubt, does not include a person who merely advises or makes recommendations to a person referred above.
- [workers](#)
  - means an individual who carries out work in any capacity for a PCBU, including work as—
    - an employee; or
    - a contractor or subcontractor; or
    - an employee of a contractor or subcontractor; or

- an employee of a labour hire company who has been assigned to work in the business or undertaking; or
- an apprentice or a trainee; or
- a person gaining work experience or undertaking a work trial; or
- a volunteer worker; or
- For the purposes of subsection (1),—
  - a PCBU is also a worker if the PCBU is an individual who carries out work in that business or undertaking.
- a **volunteer worker**—
  - means a volunteer who carries out work in any capacity for a PCBU—with the knowledge or consent of the PCBU; and
  - on an ongoing and regular basis; and
  - that is an integral part of the business or undertaking; but
  - does not include a volunteer undertaking any of the following voluntary work activities:
    - participating in a fund-raising activity;
    - assisting with sports or recreation for an educational institute, sports club, or recreation club;
    - assisting with activities for an educational institute outside the premises of the educational institution:
- [other persons at workplaces](#)
  - take reasonable care for his or her own health and safety; and
  - take reasonable care that his or her acts or omissions do not adversely affect the health and safety of other persons; and
  - comply, as far as he or she is reasonably able, with any reasonable instruction that is given by the PCBU to allow the PCBU to comply with this Act or regulations

*The information presented in this document is intended for general use only. It should not be viewed as a definitive guide to the law, and should be read in conjunction with the Health and Safety at Work Act 2015 and associated regulations (where relevant).*