



The Work Health and Safety (WHS) legislation is being harmonised across Australia. Seven states and territories including NSW, ACT, Queensland, NT, the Commonwealth, SA and Tasmania have enacted the legislation. WA and Victoria have delayed adoption.

HOW DOES THIS AFFECT YOU?

As a person who conducts a business or undertaking (PCBU) who commissions the work (the client) you now have a legislative requirement to commission designs that are safe for workers.

You also have a duty to consult with and provide information to the designer and principal contractor.

DUTY TO SAFELY COMMISSION STRUCTURES

Under section 26 of the WHS Act, the client must ensure, so far as is reasonably practicable, that the way in which the structure is installed, constructed or commissioned ensures that the plant or structure is without risks to the health and safety of persons. These persons include those who construct the structure, who use it for the purpose for which it was commissioned, who maintain or repair that structure or who demolish the structure or part of the structure. They must also consider the safety of persons in the vicinity of that structure.

CLIENT MUST CONSULT WITH THE DESIGNER

The WHS legislation section 46 requires the client to consult with the designer on risks to health and safety including those on the proposed building site. If the client is a PCBU they must, so far as reasonably practicable, consult with the designer to ensure that risks to health and safety are eliminated or if not reasonably practicable to eliminate are minimised.

Consultation may include providing the designer with information in relation to the hazards and risks at the workplace where the construction work is to be carried out. Examples may include:

- Location of services, overhead powerlines etc.
- Access for machinery during construction
- Possible fall hazards eg. terrain, slope or existing structures
- Chemical and vapour risks e.g. any toxic substances on site
- Contaminated soils
- Particles and dust e.g. asbestos
- Radiation or biological hazards
- Manual handling on site e.g. removal of rocks, etc.
- Plant and equipment on site
- Neighbouring properties or people
- Details of any existing structures and possible WHS hazards
- Any potential hazards in the workplace being designed

Please ask your designer for more information on any additional hazards or risks that they need to be aware of before starting your design. You may wish to have a special meeting with your designer about these risks and document any possible issues.



SAFE DESIGN SERVICES

Safe Design Australia has a team of qualified WHS experts to help you meet your legislative requirements. For details on our services, please visit our website. Safe Design Australia are covered by professional indemnity and public liability insurance so you can feel assured knowing that our work is covered.

DOES MY DESIGNER REQUIRE A SITE VISIT?

Where the designer is commissioned to do the work and is not requested or unable to do a site visit, the client would have a greater responsibility to inform the designer of any hazards or risk.

RENOVATIONS



If your project is a renovation you would need to provide your designer with additional information on existing WHS hazards. This could include a full set of plans of existing structures and information of any potential hazards relating to the existing site, structures and workplace.

Additional information you may provide could include the structural soundness of the existing buildings and the possible presence of any hazardous materials such as asbestos or lead based paints.

DESIGNER MUST PROVIDE YOU WITH A SAFETY REPORT

If you are a PCBU your designer has an obligation to provide you with a written safety report that specifies the hazards relating to the design of the structure so far as the designer is reasonably aware that create a risk to health and safety of persons carrying out work on the structure and are associated with your particular design.

If you are not a PCBU, the designer must still provide you with adequate information about any conditions necessary to ensure that the structure is without risks to health and safety when used for the purpose for which it is designed and for any time it is a workplace including the construction, use, maintenance or demolition.

If you did not commission the original design of the construction project you must take all reasonable steps to obtain a copy of the written report from the original designer of that structure.

PROVIDING INFORMATION TO PRINCIPAL CONTRACTOR

If you engage a principal contractor for the project (eg. builder or project manager) it is your responsibility to give this person any information on hazards at or in the vicinity of the site and structure. This would include any information that you have relating to the safety of the site and the designer's safety report and plans.

CONSULTATION

The WHS Act requires you to consult with other duty holders. This means that you should make sure that you consult and co-operate with other duty holders such as the workers, builder and designer.

FURTHER INFORMATION

Clients and designers should consult legislation including sections 19, 22, 26 and 46 of the WHS Act and regulations 61, 64 and 294-296 of the WHS Regulation. For further information or to download the WHS Act and Regulation visit www.safeworkaustralia.com.au or your state regulator.

Please note that this information in this fact sheet has been interpreted from the Act and Regulations by Safe Design Australia, clients should consult the full Act and Regulations to make their own interpretations.