

STATEMENT OF REGULATORY INTENT

Regulatory approach to Australian Work Health and Safety legislation COVID-19

This Statement provides the principles for the regulatory approach that Work Health and Safety (WHS) Regulators can take to ensure compliance with WHS laws during the COVID-19 pandemic.

WHS Regulators recognise that the COVID-19 pandemic has created an exceptional set of circumstances and will have significant impacts on persons conducting a business or undertaking (PCBUs e.g. employers), workers, officers, and other persons with duties under WHS laws.

Arrangements to apply during the pandemic

WHS Regulators will take into account the unprecedented pressure on industry and employers during the pandemic and apply a common sense and practical approach to interactions with workplaces. Importantly, compliance and enforcement activity will continue; however, consideration will first be on matters that pose a significant and/or serious risk to health and safety. WHS Regulators' responses will be proportionate with a focus on what is reasonably practicable in these exceptional circumstances.

In particular, WHS Regulators will take into account an employer's ability to meet their WHS duties given the constraints associated with the pandemic relating to:

- training, such as participation in face-to-face training, and practical hands on training demonstrations.
- working from home arrangements.
- the provision of personal protective equipment (subject to availability).

Generally, WHS Regulators will take a supportive and educative approach to compliance provided duty holders have made genuine attempts to comply with legislative requirements that are within their direct control or influence. However, WHS Regulators may use enforcement tools where actions or omissions have resulted in serious health and safety risks to workers or the community.

WHS Regulators will continue to respond to matters involving fatalities and serious incidents in line with their jurisdiction's priority or triage procedures. WHS Regulators may adjust how regulatory services are delivered based on the level of risk within their relevant jurisdictions at any given time. Each Regulator has a risk assessment protocol to guide these decisions.

Employers

Each state and territory may have public health orders relating to COVID-19 in force from time to time. Employers must make themselves familiar with these orders and abide by them. Under WHS laws, all employers must take action to protect workers and others at their workplace from the risk of COVID-19 so far as is reasonably practicable.

All employers should, in consultation with workers and workers' representatives:

- develop a plan to respond to the issues created by the pandemic, such as a COVID-19 safety plan that meets the requirements of relevant health orders.
- implement appropriate control measures to minimise, so far as is reasonably practicable, the risks of COVID-19 including the development of infection prevention and control policies and procedures.
- develop and implement updated safe systems of work that take into account directions and advice provided by health authorities and other government Agencies involved in the COVID-19 response strategies.
- continue monitoring the COVID-19 situation as it develops.

More information on managing the risks of COVID-19 is available on the [COVID-19 Information for workplaces page](#).

COVID-19 Vaccines

A COVID-19 vaccine is an additional control measure that employers should consult their workers about to reduce the risk of serious illness from COVID-19 in workplaces. All Australians who can be vaccinated against COVID-19 are encouraged to be vaccinated in accordance with the Australian Government's COVID-19 vaccination plan. WHS Regulators agree that employers should follow the public health advice in their jurisdictions in relation to COVID-19 vaccines. Vaccinations are considered a high order risk control measure; however, employers should continue to apply all reasonably practicable COVID-19 control measures.

Health and safety representatives (HSRs)

HSRs are encouraged to work collaboratively with employers to consult on WHS risks and controls during the pandemic. HSRs are entitled to monitor the rate of exposure and infection of illness or disease in the workplace, and work with employers to implement appropriate controls. However, HSRs are not entitled to personal medical information of other workers without the consent of the worker.

Workers

Workers have obligations under WHS laws to do what is reasonably practicable to protect themselves and others while at work. If a worker has suspected or confirmed COVID-19, they should inform their manager or HSR, and comply with all health orders. If any worker requires further information, details are available on the [WHS Regulators' contact information page](#).

More information

WHS Regulators will continue to monitor the situation and engage with industry, and employee and employer representatives, to provide advice and assistance during the COVID-19 pandemic.

More information is available on the [COVID-19 Information for workplaces page](#).

WHS Regulators in the majority of jurisdictions are supportive of the principles expressed in this Statement, while also noting the variances of the implementation of the model WHS laws across the country. The Statement does not apply to the WHS Regulators in the Australian Capital Territory, and in Victoria.



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