

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).