

# CLAYTON UTZ

Sydney Melbourne Brisbane Perth Canberra Darwin Hong Kong

## Checklist of Due Diligence Requirements for Company Officers under the Work Health and Safety Act 2011 (Cth) (WHS Act)

Reasonable steps required to be taken  (Steps taken from section 27(5) of the WHS Act)	Questions to be answered by Company Officers	Possible methods of compliance
Acquire and keep up-to-date knowledge of WHS matters.	<ul style="list-style-type: none"> <li>• How does the Company currently keep up to date with WHS matters? (ie. updates, briefings)</li> <li>• What form do these updates take?</li> <li>• Is there sufficient information included in the update?</li> <li>• How does the Company ensure that this information gets distributed to the right officers/employees/workers?</li> <li>• How do you ensure that you have access to this information?</li> <li>• Who is responsible for ensuring that the Company's safety management system captures this process formally?</li> </ul>	<ul style="list-style-type: none"> <li>• Keep up to date with relevant publications.</li> <li>• Attend training and awareness briefings regarding the law and the officer and the Company's obligations.</li> <li>• Ensure regular receipt of developments in workplace health and safety (ie. legislative and recent case law as well as relevant Australian Standards).</li> <li>• Monitor and review information regarding safety matters and performance.</li> <li>• Ensure that WHS matters are considered at any regular Executive level (and higher) meetings.</li> </ul>
Gain an understanding of the nature of the operations of the business or undertakings of the person conducting the business or undertaking ( <b>PCBU</b> ) and generally of the hazards and risks associated with those operations.	<ul style="list-style-type: none"> <li>• How well do you and other officers of the Company understand the Company's operations?</li> <li>• How are changes to the operations communicated?</li> <li>• How do you and other officers stay current?</li> <li>• How do you and other officers understand hazards?</li> <li>• How are the major hazards of the Company identified?</li> <li>• How do you show evidence of your understanding?</li> </ul>	<ul style="list-style-type: none"> <li>• Gain an awareness of the Company's core operations and activities and hazards associated with those operations and activities.</li> <li>• Gain an understanding of higher risk activities as well as major hazards associated with the core operations/activities (including hazards associated with a high-consequence but low-frequency risk profile).</li> <li>• Gain an understanding of common risks and hazards in the industry in which the Company operates.</li> </ul> <p>(Note: The above can be achieved through measures such as regular site visits, attending briefings and/or training in the Company's operations and safety systems, or seeking advice</p>

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		from suitably qualified persons.)
<p>Ensure that the PCBU has available for use, and uses, appropriate resources and processes to eliminate or minimise risks to health and safety from work carried out as part of the conduct of the business or undertaking.</p>	<ul style="list-style-type: none"> <li>• What resources does the Company apply to safety?</li> <li>• Does the Company have dedicated WHS/OHS personnel?</li> <li>• If so, do the personnel have sufficient resources to do their job properly ? (ie. time, money, training)</li> <li>• Are the resources applied appropriate for the type and size of the Company?</li> <li>• Does the Company have systematic processes for the identification of hazards?</li> <li>• Are they carried out regularly enough? How do you know?</li> <li>• Are the processes effective, ie. do they eliminate the hazard so far as reasonably practicable? How do you know?</li> <li>• Are the people responsible for implementing those measures identified?</li> <li>• Is there a timeframe for completion of appropriate control measures identified?</li> <li>• What discipline is there around auditing, reviewing and addressing findings?</li> <li>• Is there accountability to the management team or Board that these processes are followed?</li> </ul>	<ul style="list-style-type: none"> <li>• Appoint a safety expert (such as personnel with dedicated WHS expertise or external WHS consultants) with the appropriate level of authority/reporting lines to officers within the Company.</li> <li>• Monitor resource allocation – ensure adequate and transparent investment in safety infrastructure, processes and systems.</li> <li>• Consider safety as a factor in all budget decisions and be able to ensure that safety and welfare of workers is not compromised.</li> <li>• Proactively raise WHS issues at Executive level (and higher) meetings.</li> </ul>

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<p>Ensure that the PCBU has appropriate processes for receiving and considering information regarding incidents, hazards and risks and responding in a timely way to that information.</p>	<ul style="list-style-type: none"> <li>Do the Company's incident, hazard and risks reports provide an accurate picture of the health and safety issues in your organisation?</li> <li>How do you verify this? (ie. How do you challenge, test, or audit the reports?)</li> <li>Are these reports communicated to the right people? What is done about them?</li> </ul>	<ul style="list-style-type: none"> <li>Ensure that the Company has sufficient systems in place for reporting of and responding to notifiable incidents that is compliant with the WHS Act.</li> <li>Ensure that all workers (including contractors, sub-contractors and labour hire employees) are made aware of and make use of these systems.</li> <li>Carry out audits and testing of reporting systems.</li> </ul>
<p>Ensure that the PCBU has and implements processes for complying with any duty or obligation under the WHS Act</p>	<ul style="list-style-type: none"> <li>Has the Company conducted a legal audit to identify all of its obligations under the legislation?</li> <li>Are there sufficient systemic processes in place for ensuring compliance?</li> <li>Is there a process for identifying changes in the obligations that will impact on the Company and ensuring that these are integrated into the Company's processes?</li> <li>How will the Company communicate these obligations to staff and train staff regarding compliance with these obligations? Do you have supporting evidence?</li> </ul>	<ul style="list-style-type: none"> <li>Audit policies, procedures and practices (including those required to be applied by contractors) against legislative obligations.</li> <li>Be aware of and ensure that the Company complies with all notices issued under the WHS legislation.</li> <li>Monitor and ensure that adequate training and instruction is provided for health and safety representatives and workers.</li> <li>Ensure key hazards are appropriately managed through engineering/structural controls, administrative measures etc.</li> <li>Ensure that clear lines of management responsibilities are maintained for WHS matters (including with and between contractors and subcontractors); reinforced through statement of duties.</li> </ul>
<p>Verify the provision and use of the resources and processes referred to above.</p>	<ul style="list-style-type: none"> <li>How will you verify that the Company's obligations are being met?</li> </ul>	<ul style="list-style-type: none"> <li>Ensure that systematic audit and review processes are in place to monitor and review compliance and effectiveness of the Company's WHS systems.</li> <li>Verify that contractors and sub-contractors are also sufficiently audited before commencing work for the Company.</li> </ul>

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		<ul style="list-style-type: none"><li>• Receipt of reports relevant to WHS issues and participation in safety training and other activities.</li><li>• Ensure that all contracts and supporting processes are designed to facilitate compliance with WHS systems.</li></ul>

## For further information



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