

**MENTAL HEALTH AND**

**SAFETY AT WORK**



**HAIR  
STYLISTS  
AUSTRALIA**

## **WORK HEALTH AND SAFETY (WHS) LAWS**

The purpose of WHS laws are to eliminate or minimise risks to the health and safety of workers. 'Health' is defined as meaning psychological (mental) as well as physical health.

### **1) Risk management**

Under WHS laws, employers/person conducting business or undertaking (PCBU) have a duty of care towards workers' health and safety.

This duty requires employers to control the risks to mental health and safety of workers arising from the work being undertaken, by eliminating risks so far as is reasonably practicable. If it is not reasonably practicable to eliminate the risks, an employer must minimise those risks, so far as is reasonably practicable.

Employers have a duty to:

- a. Provide and maintain a work environment that is safe and without risks to health and safety that are associated with mental health hazards.
- b. Provide and maintain systems of work that are safe and without risks to health and safety associated with mental health hazards.
- c. Consult with workers and their elected HSRs regarding mental health hazards, and potential controls.

### **2) Mental health hazards**

Mental health hazards cover anything potentially detrimental to the mental, emotional, and social dimensions of what it means to be healthy. Exposure to mental health hazards at work increases the risks of psychological injuries such as depression, anxiety or post-traumatic stress disorder. The table below outlines common mental health hazards that must be addressed and the aspect of work to which they relate to:

<b>Aspects of Work</b>	<b>Examples of Risk</b>
<b>Work Design</b>	<ul style="list-style-type: none"> <li>• Increased workload and work demand</li> <li>• High cognitive demands</li> <li>• High emotional demands</li> <li>• Inadequate staffing levels</li> </ul>
<b>Work Organisation</b>	<ul style="list-style-type: none"> <li>• Poor communication and management of change</li> <li>• High-risk work arrangements such as shift work, fatigue</li> <li>• Job insecurity</li> </ul>
<b>Work Management</b>	<ul style="list-style-type: none"> <li>• Lack of role clarity</li> <li>• Low organisational justice</li> <li>• Low recognition and reward</li> <li>• Biased, unfair or unreasonably lengthy workplace investigations</li> </ul>
<b>Work Relationships</b>	<ul style="list-style-type: none"> <li>• Lack of supervisor or co-worker support</li> <li>• Inequitable or disrespectful workplace culture</li> <li>• Exposure to violence and harassment, including gendered violence, such as sexual harassment</li> <li>• Bullying and discrimination</li> </ul>
<b>Work Environment</b>	<ul style="list-style-type: none"> <li>• Traumatic events</li> <li>• Isolated or remote work</li> </ul>

### 3) How should your employer control the risks?

- a. An employer must eliminate, where reasonably practicable, risks to the health and safety of workers that are associated with mental health.
- b. If it is not reasonably practicable to eliminate these risks, the employer must minimise, so far as is reasonably practicable, these risks by doing one or more of the following:
  - i) Changing the design, organisation and management of work e.g.
    - Giving workers control over their work and clear job descriptions. This can be done through an Enterprise Agreement, representation via elected Delegates, HSRs and committees such as Health and Safety Committees and Joint Consultative Committees.
    - Ensuring adequate staffing levels for all areas of work.
    - Providing job security.
  - ii) Changing work environment, conditions or methods e.g.
    - In consultation with workers, developing policies and procedures, including disciplinary and performance management policies, that support the mental and physical wellbeing of workers and providing appropriate training, supervision and support for supervisory staff to implement them.
  - iii) Promoting supportive and respectful work relationships such as:
    - Building an ongoing feedback loop.
    - Encourage trusting and respectful communications.
    - Acknowledging good work and practice/ recognising and appreciating workers.
    - Enhancing the meaningfulness of work.
    - Demonstrating model organisation values and accountability.

- Offering in-house workplace counselling along with formal return to work programs developed in consultation with workers.
  - Providing peer support schemes or worker assistance programs.
  - Developing workplace health strategies such as physical activity incentives, mental health awareness and education programs to remove the stigma associated with mental illness.
- c. If after step [b] above, a risk to health and safety associated with mental health remains, the employer must reduce the risk, so far as is reasonably practicable, by the use of information, instruction or training.

However, an employer may only primarily rely on the use of information, instruction or training to control a mental health risk if none of the measures set out at step [b] above, alone or in combination, is reasonably practicable.

## **4) What actions can I take?**

To protect yourself and your workmates from mental health hazards and injuries at work:

- a. Identify and collect evidence of the mental health hazard.
- b. Determine how you and your workmates want to deal with the hazard and what outcome you all want.
- c. Report the mental health hazard to your employer, providing them with an opportunity to respond and fix the issue.
- d. Ensure you and your workmates demonstrate visible support for the solution to the mental health hazard.
- e. If your employer fails to or refuses to make the situation safe, contact your union HSR/Delegate or Organiser immediately.

## **IN ADDITION TO WHS LAWS, THE FOLLOWING LAWS ALSO APPLY TO YOUR MENTAL HEALTH AND WELLBEING AT WORK:**

### **5) Workers' compensation**

Workers' compensation law imposes duties on your employer to provide you with access to financial assistance, to assist in your recovery and return to work after a psychological or physical injury.

Workers' compensation law applies to any accepted psychological injury caused by or aggravated by work, including psychological injury resulting from a physical injury (e.g after suffering a physical injury, a worker can develop secondary health issues such as depression, anxiety etc).

#### **When making a workers' compensation claim**

##### **Dos**

- ✓ Report the psychological injury to your supervisor and in your employer's injuries register
- ✓ Make a claim as soon as possible after an injury
- ✓ Get a "Certificate of Capacity" from your GP and give it to your employer to initiate your claim
- ✓ See your own doctor, not the company doctor

##### **Don't**

- ✗ Be talked out of making a compensation claim
- ✗ Assume that your employer will advise you correctly
- ✗ Be told which doctor to see - choosing your doctor is your right
- ✗ Allow an employer representative to come to your doctors' appointments
- ✗ Agree to give a statement without first seeking advice from the union
- ✗ Go it alone - contact the union for help and advice

Workers' compensation is complex. Therefore, always contact your Delegate/HSR or Organiser for advice on how best to proceed with a workers' compensation claim.

## **6) Fair Work Act 2009 and State and Territory**

### **Industrial laws**

Covers bullying, work-related discrimination and workers' rights to access their legal employment entitlements, i.e. access to paid and unpaid personal (sick) leave.

## **7) Federal and State Privacy Laws**

Workers are not required to disclose a mental health condition to their employer unless it affects their capacity to do their job or affects their safety or the safety of others at work. However, employers should have organisational systems in place to ensure workers are encouraged and understand the importance of getting medical advice, especially if their mental health condition may affect their ability to carry out the inherent or essential requirements of the job, including working safely.

Also, during recruitment for a job, if a worker does not disclose a known pre-existing condition when requested, it may affect their access to workers' compensation if the condition worsens or reoccurs in that employment.

### **NEED HELP?**

**Contact HSA for more info:**

**1300 898 971**

**[hairstylistsaustralia@nat.awu.net.au](mailto:hairstylistsaustralia@nat.awu.net.au)**