

# Duties to labour hire workers under the OHS Act



From 22 March 2022, changes to the Occupational Health and Safety Act 2004 (OHS Act) extend the definitions of 'employer' and 'employee' to ensure labour hire workers are considered employees of their host employer for the purposes of the OHS Act.

From 22 March 2022, host employers owe the same duties towards labour hire workers as they do towards their direct employees.

From 22 March 2022, changes to the OHS Act also include a new duty for labour hire providers and host employers to 'consult, cooperate and coordinate' with each other where they share OHS duties to labour hire workers.

The following information shows labour hire provider and host employer duties to labour hire workers under the OHS Act before 22 March 2022, and their duties to labour hire workers after 22 March 2022.

Duties to labour hire workers					
OHS Act section	Provision	Duties to labour hire workers before 22 March 2022		Duties to labour hire workers from 22 March 2022	
		Providers	Hosts	Providers	Hosts
<b>Duties of employers to employees</b>					
21	provide and maintain a working environment that is safe and without risks to health, so far as is reasonably practicable	✓	✓	✓	✓
<b>Duties of employers to monitor health and conditions, so far as is reasonably practicable</b>					
22(1)(a)	monitor the health of employees	✓	x	✓	✓
22(1)(b)	monitor conditions at any workplace under the employer's management and control	✓ (in relation to provider's workplace)	✓	✓ (in relation to provider's workplace)	✓
22(1)(c)	provide information to employees about health and safety, including in other languages as appropriate	✓	x (host may already provide this information)	✓	✓
22(2)(a)	keep information and records relating to health and safety of employees	✓	x	✓	✓
22(2)(b)	employ or engage persons suitably qualified to provide advice on health and safety of employees	✓	x (host may already engage such a person)	✓	✓
<b>Duties of employers to other persons, so far as is reasonably practicable</b>					
23	ensure persons other than employees are not exposed to risks to their health	x	✓	x	✓

<b>Duties of persons who manage or control workplaces, so far as is reasonably practicable</b>					
26	ensure that the workplace and means of entering and exiting the workplace are safe and without risks to health	✓ (in relation to provider's workplace)	✓	✓ (in relation to provider's workplace)	✓
<b>Duty of employers to consult with employees, so far as is reasonably practicable</b>					
35	consult with employees when doing certain things relating to occupational health and safety (including identifying and controlling hazards and risks, making decisions about the adequacy of facilities and making changes that may affect the health and safety of employees)	✓	x	✓	✓
<b>Establishment of designated work groups</b>					
43	do everything reasonable to ensure negotiations on the establishment of a designated work group (DWG) within 14 days after receiving a request from an employee	✓	x	✓	✓
<b>Prohibition on discrimination</b>					
76	employer (or prospective employer) is guilty of an indictable offence if they discriminate against an employee (or prospective employee) on the basis that the employee does specific things permitted by the OHS Act	✓	x	✓	✓
<b>Duty to consult with other employers in relation to duties relating to labour hire</b>					
35A	<b>New duty from 22 March 2022:</b> providers and hosts who have duties towards labour hire workers must, so far as is reasonably practicable, consult, cooperate and coordinate with other people who have a duty to the same worker				

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