

# CHAPTER 1 OHS POLICY & REGULATIONS

The welfare of workers is recognised as a fundamental human right. The practice of occupational health and safety is focussed on providing safe and healthy workplaces for all workers regardless of the type of workplace, and whether work is completed indoors or outdoors.

## INTRODUCTION

Different countries have varying occupational health and safety regulations and a range of ways to enforce those regulations. Many regulations exist because community and voluntary organisations formed to bring workers' rights to the forefront of government legislative practices.



Occupational health is concerned with the physical, mental, and social wellbeing of workers. The World Health Organisation (WHO) suggests that occupational health goes beyond ensuring an *adequate* standard of wellbeing. Occupational health is about improving working cultures, conditions, and environment to promote workers' health and working capacity.

Various factors influence workplace occupational health and safety (OHS) management practices. OHS practices can vary between countries, industries, and even from one workplace to the next. The factors influencing OHS practice include:

- Laws & Regulations
- Enforcement of laws and compliance practices
- Economics – spending can improve productivity, but only to a point. Excessive spending may become wasteful.
- Risk Management
- Ethics – doing what is perceived as morally right.
- Quality assurance practices

- Level of training
- Cultural/Social behaviours
- Psychology/mindset of workers
- Industry specific practices- note certain higher risk industries may require more attention to OHS

## Defining a Worker

The legal definition of a worker is sometimes broader than people realise. Managers are advised to check current workplace legislations in their country, state, or region for legal definitions. In the meantime, we acknowledge that workers include paid employees, contractors and suppliers.

A worker is defined as a person who carries out tasks for a specific purpose on behalf of a specified organisation or company. This includes – but is not limited to – employees, contractors, subcontractors, employees of labour hire companies (such as temporary workers through a recruitment agency), an apprentice, trainee or intern, and outworker, loaned employee or a volunteer or any other person working for the business objectives in any capacity. The definition of a worker can include anyone working in any capacity for the gain of any organisation regardless of the entity's legal structure.

Workers are legally responsible for adhering to OHS policies, following procedures or acting in line with codes of practice. Adults in a workplace have a responsibility to act in ways that contribute to achieving community and business outcomes. Additionally, workers have a legal responsibility

to act safely and report incidents of risks or accidents. Beyond these legal responsibilities, a worker is not expected to respond to OHS non-compliance. However, ethical and value-based decisions can drive an individual to report any incident which is non-compliant with general workplace requirements and standards.

## Worker Rights and Duties

Workers rights and duties must also be understood in the context of occupational health and safety. General worker responsibilities include:

- Each worker must take reasonable steps to protect their own safety and health.
- Each worker has a duty to take reasonable steps to protect the safety and health of others.
- Supervisors' and senior officers' have a lawful duty to take reasonable steps to protect the safety and health of others – chiefly workers under their supervisor.
- Self-employed people have a duty to take reasonable steps to protect their own and other people's health and safety.
- Workers have the right to enquire about risks and hazards, to remove themselves from a dangerous situation, and to be reassigned to less risky work (if applicable)

Having OHS regulations in place does not always result in improved equality of opportunity. Global labour laws are archaic in some regions, with over 100

countries legally preventing women from working in certain roles. This situation is estimated to impact the choices and autonomy of over 2.5 billion women. Men-only occupations exist where there is a perception that certain jobs require serious physical strength. For example, certain manual jobs are not able to be performed by females.

Some countries with ongoing (and some rather absurd) labour law restrictions include:

- Moldova
- Russia
- China
- Malaysia
- Bahrain
- Nigeria
- Belarus
- Kazakhstan
- Egypt
- Argentina

Additionally, there are countries where workplace laws don't favour worker's rights. Such countries often have poor working conditions. The Middle East and North Africa are known as regions which demonstrate unfavourable labour agreements.

Workers have remained unpaid for months in some regions, leaving them and their families desperate. These workers can include government officials

or public service workers, not only workers in private industries. In these situations, there may be no options for workers – no place to turn and no chance to move to another job.

For example, in Nigeria many workers are denied the right to voice their complaints. Workers have been suspended or dismissed from the role when trying to act or participate in legitimate strike action. Benin, Nigeria, and Zimbabwe all have a history of suspending or dismissing workers for taking legitimate strike action. South Korea, Bangladesh and Guatemala and Philippines are also considered among the world's worst places to work.

In contrast, there are countries that are developing progressive attitudes by abolishing gender-based regulations in workplaces. The World Economic Forum's Global Gender Gap index highlights how countries such as Poland and Bulgaria have removed gender related restrictions.





## Laws and Regulations

Although judicial systems vary between countries, it is important to understand the broader definitions and outcomes of laws and regulations impacting occupational health and safety requirements.

Legislation is a set of rules, regulations or guidelines passed by an Act of Parliament, Congress or similar. Legislation relating to occupational health and safety is applicable across all industries and fields.

Acts are passed by all levels of parliament – federal, national, state, or territorial devolved governments (devolution is the transfer the power from a central government to regional administrators). Globally, there are many unitarian states with devolved governments executing parliamentary powers over specific regions.

Usually, the federal government of unitarian state passes laws of national federal interest. The Acts created by state, territory or regional parliaments are only enforceable within the state, territory or region within which they were created. An Act remains in force until it is repealed.

Regulations provide specifics on how legislation operates. Regulations are known as delegated legislation. Regulations must include certain details on actions which should be taken in the event of OHS laws being breached.

*Countries around the world have key federal or country-wide legislation which relates to the health and safety of workers as general provisions. Here are some examples:*

- **Australia** - Work Health and Safety Act 2011
- **New Zealand** - Health and Safety and Employment Act 1992
- **United Kingdom** - Employment (Amendment) Regulations 2019
- **USA** - Occupational Safety and Health Act 1970.
- **South Africa** - Occupational Health and Safety Act 1993: Incorporation of Safety Standards Regulations (No. R. 542)
- **Republic of Ireland** - Safety, Health and Welfare at Work Act 2005

“General provisions” do not cover industry specific acts and regulations. For example, agriculture and fisheries have very highly regulated occupational



responsibilities noted in regulatory frameworks. Healthcare, teaching, building and construction and other industries also have strict interpretations of occupational responsibilities. Understanding and communicating occupational law is a specialist trained skill which in most cases takes at least 4-years of training and education.

## **Policies, Procedures and Codes of Practice**

The occupational health and safety industry is heavily regulated by legislation which feeds into mandatory policies.

Policies and procedures outline the acceptable processes and the general essence of an organisation. These policies are the guiding principles for behaviour and conditions which businesses and employers demand from their employees and contractors. A Code of Practice is an excellent way for businesses to communicate standards relating to employment or occupations.

Employers and workplaces can adopt proactive approaches and targeted practices which are designed to counter problematic workplace behaviours. These are usually led by policy.

## **Licensing Requirements**

Many aspects of licensing exist across a multitude of industries. It is often a requirement to gain an appropriate licence, work actively to maintain standards needed for ongoing licencing (sometime evident through professional development) or to renew licensing requirements. There are many variables affecting licencing and permits relating

to workplace laws – as each regulating body may have specific requirements for a licence. Employers are encouraged to check licensing requirements in relation to workplace OHS as required.

