

EMPLOYER WORK HEALTH & SAFETY FACT SHEET



EMPLOYER HEALTH AND SAFETY DUTIES AND BUSHFIRE SMOKE

Employers have a primary legal responsibility to take reasonable steps to ensure workers' health and safety is protected.

As an employer, supervisor or manager, you must ensure the health and safety of workers, including volunteers, casuals, labour hire and temps, contractors and subcontractors.

Businesses that manage or control fixtures, fittings and plant at a workplace are also legally required to ensure the health and safety of workers, even if they're employed by someone else. This includes property owners and property managers that control built environments in which work takes place.

The bushfire smoke poses a serious threat to human health. [There is no safe level of exposure to bushfire smoke.](#)

EMPLOYER DUTIES

As an employer, you are legally required to exercise due diligence to ensure that you provide a safe and health workplace.

Due diligence means you must take reasonable steps to:

- acquire and keep up-to-date knowledge of work health and safety matters;
- gain an understanding of the nature of the operations of the business and the hazards and risks associated with those operations
- ensure that you have sufficient resources to eliminate the health and safety risks, or minimise the risks, to employees
- ensure you have a process for recording incidents, hazards or risks, and a process for responding to that information

Employers must consult with their employees about the employees' workplace health and safety. Failure to consult can result in a fine of up to \$100,000.

Consultation under law is more than the mere exchange of information. Employees must be able to contribute to the decision-making process. As an employer or supervisor, you are legally required to take into account the views of workers. You must also consult with the Health and Safety Representative(s) (HSRs).

Consultation with workers and HSRs must occur when you:

- conduct a hazard or risk assessment
- make any decisions about ways to eliminate or minimise the risks
- when making decisions about facilities for the welfare of workers
- when proposing any change that may impact workers' health or safety
- when making decisions about monitoring of hazards or risks
- when making any decision about the process for consultation

EMPLOYERS MUST CONTINUE TO PAY WORKERS

You must continue to pay your employees during the smoke haze, even if they cannot perform normal duties due to the serious risks of health hazards.



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Under the Fair Work Act, you are required to find useful employment for your workers, and continue to pay them as normal.

You cannot stop paying your workers merely because business is quiet or there isn't enough work due to the smoke. The smoke haze constitutes a serious work health hazard, but it is not a natural disaster that would legally allow you to cease paying workers.

If your employee is casually employed, the casual must be paid for at least the minimum engagement period under the Award (typically 2-4 hours).

If you have an enterprise agreement, your enterprise agreement will specify requirements for inclement weather and/or stand downs.

Employees are also entitled to take leave, either paid leave or unpaid leave, during the bushfire smoke haze. Workers who feel sick for any reason, including because of exposure to bushfire smoke, are entitled to take sick leave.

RESPONSIBILITIES OF YOUR LANDLORD OR BUILDING MANAGER

The controller of your building (either you or a landlord or building manager) is required under the WHS Act to ensure the safety of workers who work in buildings they control.

As a tenant, your business may also have clauses in your lease that require the landlord to install air purification filters and air quality monitors.

EMPLOYEE DUTIES & RIGHTS

Employees must take reasonable care of their own health and safety, and the health and safety of co-workers. Employees must also follow reasonable directions from employers and supervisors to comply with safety laws.

Employees have a legal right to refuse to undertake work that would put their health or safety at serious risk. The smoke haze, especially when air quality index ratings are above 150, presents a serious risk to health.

If a worker ceases work due to the risk of a serious health or safety hazard:

- you cannot take any negative (adverse) action against them, for example docking their pay, reducing their shifts, docking leave, commencing disciplinary action, or terminate their employment.
- you may provide alternative duties that are not exposed to the hazard at the same or another workplace that is safe and appropriate for the employee to work in until they can return to normal duties.

IS BUSHFIRE SMOKE A SERIOUS HEALTH HAZARD?

The smoke haze from the bushfires, especially when air quality index ratings are 150+, presents a serious risk to short-term and long-term health. The bushfire smoke contains contaminants and particulate matter with known health risks causing cardiovascular, cerebrovascular and respiratory impacts.

Search online: "ACT Health Air Quality Index"

According to the World Health Organisation, exposure to particulate matter from smoke or diesel can "lead to reduced lung function, respiratory infections and aggravated asthma. Maternal exposure to ambient air pollution is associated with adverse birth outcomes, such as low birth weight, pre-term birth and small gestational age births."