



## Workplace Hazard Report

This report is issued pursuant to the *NSW Work Health and Safety Act 2011* (the Act). Where the Person in Control of a Business or Undertaking (PCBU) is in receipt of a report (including its Officers or Delegates), it should be considered that harm is reasonable foreseeable and/or there currently exists a contravention of the Act. The recommended action and prescribed timeframe should be complied with (where one is provided), unless the parties agree to another course of action.

<b>Complete items 1-5 and give form to the PCBU an Officer of the PCBU or Senior Management.</b>	
<b>(1) Brief description of hazard/health and safety issue.</b>	
<b>(2) Location of hazard in the workplace</b>	
<b>(3) Time/Date hazard identified</b>	
Time:            am <input type="checkbox"/> pm <input type="checkbox"/>	Date:    /    /
<b>(4) Recommended remedial action towards compliance (if known)</b>	
Description:	
Completion date:    /    /	
<b>(5) Parties</b>	
Issued by:	Issued to:
Signature of issuing party:	Manager of area:
Issued on:        /    /	Supervisor of area:

**Note:**

- Original to be retained by the reporting person.
- Copy to be given to the PCBU an Officer of the PCBU or Senior Management as applicable.
- Copy to be forwarded to the AMWU or SafeWork NSW as applicable.

**Prohibition of discriminatory conduct**

(1) A person must not engage in discriminatory conduct for a prohibited reason.

Maximum penalty:

- (a) in the case of an individual—\$100,000, or
- (b) in the case of a body corporate—\$500,000.

(2) A person commits an offence under subsection (1) only if the reason referred to in section 106 was the dominant reason for the discriminatory conduct.

Note. Civil proceedings may be brought under Division 3 of this Part in relation to discriminatory conduct engaged in for a prohibited reason.

**Misrepresentation**

(1) A person must not knowingly or recklessly make a false or misleading representation to another person about that other person's:

- (a) rights or obligations under this Act, or
- (b) ability to initiate, or participate in, a process or proceedings under this Act, or
- (c) ability to make a complaint or inquiry to a person or body empowered under this Act to seek compliance with this Act.

Maximum penalty:

- (a) in the case of an individual—\$100,000, or
- (b) in the case of a body corporate—\$500,000.

#### What is “discriminatory conduct”

- (1) For the purposes of this Part, a person engages in *discriminatory conduct* if:
- (a) the person:
    - (i) dismisses a worker, or
    - (ii) terminates a contract for services with a worker, or
    - (iii) puts a worker to his or her detriment in the engagement of the worker, or
    - (iv) alters the position of a worker to the worker’s detriment, or
  - (b) the person:
    - (i) refuses or fails to offer to engage a prospective worker, or
    - (ii) treats a prospective worker less favourably than another prospective worker would be treated in offering terms of engagement, or
  - (c) the person terminates a commercial arrangement with another person, or
  - (d) the person refuses or fails to enter into a commercial arrangement with another person.
- (2) For the purposes of this Part, a person also engages in discriminatory conduct if the person organises to take any action referred to in subsection (1) or threatens to organise or take that action.

#### What is a “prohibited reason”

Conduct referred to in section 105 is engaged in for a *prohibited reason* if it is engaged in because the worker or prospective worker or the person referred to in section 105 (1) (c) or (d) (as the case requires):

- (a) is, has been or proposes to be a health and safety representative or a member of a health and safety committee, or
- (b) undertakes, has undertaken or proposes to undertake another role under this Act, or
- (c) exercises a power or performs a function or has exercised a power or performed a function or proposes to exercise a power or perform a function as a health and safety representative or as a member of a health and safety committee, or
- (d) exercises, has exercised or proposes to exercise a power under this Act or exercises, has exercised or proposes to exercise a power under this Act in a particular way, or
- (e) performs, has performed or proposes to perform a function under this Act or performs, has performed or proposes to perform a function under this Act in a particular way, or
- (f) refrains from, has refrained from or proposes to refrain from exercising a power or performing a function under this Act or refrains from, has refrained from or proposes to refrain from exercising a power or performing a function under this Act in a particular way, or
- (g) assists or has assisted or proposes to assist, or gives or has given or proposes to give any information to any person exercising a power or performing a function under this Act, or
- (h) raises or has raised or proposes to raise an issue or concern about work health and safety with:
  - (i) the person conducting a business or undertaking, or
  - (ii) an inspector, or
  - (iii) a WHS entry permit holder, or
  - (iv) a health and safety representative, or
  - (v) a member of a health and safety committee, or
  - (vi) another worker, or
  - (vii) any other person who has a duty under this Act in relation to the matter, or
  - (viii) any other person exercising a power or performing a function under this Act, or
- (i) is involved in, has been involved in or proposes to be involved in resolving a work health and safety issue under this Act, or
- (j) is taking action, has taken action or proposes to take action to seek compliance by any person with any duty or obligation under this Act.