

## Work Health & Safety Obligations

### Users of Plant and Equipment (NSW)



Mandatory Obligations	WHS Act Section 20 & 21  The full ACT can be viewed <a href="#">here</a>	The full Regulations can be viewed <a href="#">here</a>	<b>Primary Duty of Care</b> Primary Duty of Care creates the primary duty to ensure as far as reasonably practicable provision of safe plant & structures, safe systems of work, information training and supervision.
	WHS Act Section 18	WHS Regulations Reg. 32 - 38	<b>As Far As Reasonably Practicable</b> The risk assessment process (identify hazards, assess risks, implement controls) is critical in determining what is <i>reasonably practicable</i> in providing safe plant, safe systems of work, information, training & supervision.
	WHS Act Section 19 (3)(f)	WHS Regulations Reg. 39	<b>Provide Information, Training &amp; Supervision</b> Clarifies the positive obligation to ensure <i>as far as reasonably practicable</i> the provision of information, training & supervision necessary to protect all persons from risks to health.
	WHS Act Section 19 & 21	WHS Regulations Reg. 203 - 226	<b>Plant Owners and Users Must:</b> <b>1.</b> Follow the hazard identification, risk assessment and control process (Reg. 203 & 32-38) <b>2.</b> Ensure plant meets certain specific design and maintenance criteria (Reg. 205 - 226) <b>3.</b> Provide a safe environment - this includes following the hazard identification, risk assessment and control process (Reg. 32-38) for workplaces and tasks <b>4.</b> Provide instruction, training and supervision (Reg. 39) for users of plant and others
	WHS Act Section 42	WHS Regulations Reg. 227 - 288 Sched. 5	<b>Registered Plant – Additional Duties</b> Registered Plant includes: certain lifting devices and attachments, pressure vessels, some amusement devices, prefabricated scaffold and formwork and concrete pumps (Schedule 5 parts 1 & 2) Suppliers and owner / users have additional obligations to inspect, test, keep records, register and inspect these plant items.
	WHS Act Section 18 & 19	WHS Regulations Reg. 32 - 38, 39	<b>Contractor &amp; Subcontractor Management</b> There is a fundamental obligation upon duty holders to ensure the safety of contractors and subcontractors.

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#### Regulator Guidance Material

The WHS Regulator issues guidance material on specific safety issues.

Guidance materials are designed to elaborate on HOW to satisfy the obligations set down by the legislation. Guidance covers a very broad variety of topics such as excavation work, hazard identification & risk assessment, various specific plant & equipment issues etc.

**NSW codes of practice are available [here](#)**

Following regulator guidance is not mandatory; however failure to meet or exceed the guidance may be used in a prosecution as evidence of a failure to satisfy "duty of care" obligations.

Whilst there is a multitude of guidance material available, the Code of Practice "Managing Risks of Plant in the Workplace" is particularly useful as it covers plant supplier and user duties and is recommended reading [click here](#)

Plant Assessor applies the specific requirements of relevant guidance material in the context of a plant hazard assessment.

#### Industry Knowledge

There is an underlying requirement in the WHS legislation that duty holders must be conscious of the existence and further development of "industry knowledge" relating to management of safety hazards and risks.

The most well-known examples of industry knowledge are Australian and International Standards; however industry knowledge can be contained in a multitude of medium, including for example industry association publications.

This is probably the most difficult information for duty holders to keep abreast of. Examples of some highly important Australian Standards relating to plant include:

AS 4024 (series) – Safety of machinery  
AS 1418 (series) – Cranes, hoists and winches  
AS 2550 (series) – Cranes, hoists and winches – safe use  
AS 2294 (series) - Earth-moving machinery - Protective structures  
AS/NZS 2153 (series) – Tractors and Agricultural Machinery  
AS 1657 – Fixed platforms, walkways, stairways & ladders – design & construction  
AS/NZS 1200 (series) – Pressure Equipment

Plant Assessor condenses all of the relevant requirements of standards and applies them against specific plant types in the context of a plant hazard assessment.