

## SMART STUDY

# Mines statutory positions portal: Navigating the *Work Health and Safety Act 2020*

This guide has been prepared to provide an overview of the *Work Health and Safety Act 2020* (WHS Act).

Many of the exam questions have key terms, which are defined in the WHS Act or the Work Health and Safety (Mines) Regulations. In the WHS Act, most of the key terms appear under the section heading 'Definitions'.

Using the key terms and this guide will help you to locate the section of the WHS Act needed to answer each exam question.

An Act is a written law that is enacted by Parliament.

The WHS Act is written in the following structure, which is common across legislation:



Groups of sections can be organised into parts. Parts are sequential and may be broken into divisions and subdivisions.

Each part, which is sequentially numbered, is made up of a division. Divisions restart at number 1 for each part, and some divisions have subdivisions.

Each division or subdivision is made up of sections, which are numbered from 1 to 425 in the body of the WHS Act. Not all sections of the WHS Act are used. Sections are broken down as follows:



At the back of the WHS Act are 'schedules'. These are a list of specific items that set out the details of the law.

The WHS Act has two schedules for items 'Various offices and bodies' and 'Regulation making powers'.

To help with answering questions, the convention when referring to a section in writing is 's. 229(c), s. 230 and so on.

The figure below is an example of the structure of the WHS Act taken from the 'Contents'.

	<b>Part 13 — Legal proceedings</b>	← Part
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## Breakdown of key terms covered in each part of the WHS Act

### Part 1 – Preliminary

Describes the key definitions and terms in the Act, and the establishment of various offices and bodies.

#### Key terms in Part 1

- Definitions
- Other important terms

### Part 2 – Health and safety duties

The laws defining the legal duties for those in the workplace including contractors, sub-contractors and visitors, and those involved with plant and structures.

#### Key terms in Part 2

- Duty
- Industrial manslaughter
- Management control
- More than 1 person
- More than one duty
- Not transferable
- Officer
- Other persons
- Primary duty
- Plant
- Structures
- Worker

### **Part 3 – Incident notification**

Definition of a 'notifiable incident', who has to report these, and preserving the scene of an incident until inspectors or investigators arrive.

*Key terms in Part 3*

- Dangerous incident
- Notifiable incident
- Serious injury or illness
- Preserve site

### **Part 4 – Authorisations**

Describes various 'Authorisations' for work, workplaces, plant or substances.

*Key terms in Part 4*

- Authorised
- Authorisation
- Authorised work
- Plant and substances
- Prescribed qualifications
- Workplace

### **Part 5 – Consultation, representation and participation**

Describes the various types of consultation, representation and participation the person conducting a business or undertaking (PCBU) must provide and/or adhere to.

*Key terms in Part 5*

- Cease unsafe work
- Consultation
- Elections
- Health and safety committee
- Health and safety representative
- Issue resolution
- Participation
- Powers and functions
- Prisoners
- Provisional improvement notices
- Representation

### **Part 6 – Discriminatory, coercive or misleading conduct**

The PCBU has certain duties relating to the topics in Part 5, outlined in this Part.

*Key terms in Part 6*

- Coercive
- Civil proceedings
- Criminal proceedings
- Discriminatory
- Misleading

### **Part 7 – Not used**

This Part of the Act is not used.

### **Part 8 – The regulator**

*Key terms in Part 8*

- Delegation by the regulator
- Functions of the regulator
- Powers of the regulator

## **Part 9 – Securing compliance**

The various compliance functions are outlined in this Part.

*Key terms in Part 9*

- Compliance
- Damage
- Inspectors
- Powers relating to entry
- Powers relating to documents and information
- Offences in relation to inspectors

## **Part 10 – Enforcement measures**

The WHS Act allows for various enforcement measures which are covered in this Part.

*Key terms in Part 10*

- Enforcement notices
- Non-disturbance notices
- Prohibition notices
- Remedial action

## **Part 11 – Enforceable undertakings**

*Key terms in Part 11*

- Alleged contravention
- Compliance with
- Contravention of
- Enforceable undertakings
- Withdrawal or modification of

## **Part 12 – Review of decisions**

Outlines the basis and process to review decisions made under the Act.

*Key terms in Part 12*

- External review
- Internal review
- Reviewable decisions

## **Part 13 – Legal proceedings**

Covers aspects of legal proceedings under the Act.

*Key terms in Part 13*

- Adverse publicity
- Body corporate
- Civil liability
- Evidence
- Fail to comply
- Legal proceedings
- Limitation for prosecutions
- Prosecution
- Restoration
- Sentencing
- The Crown
- Training order
- Unlawful evidence
- WHS undertaking

## Part 14 – General

This Part outlines some general provisions.

### *Key terms in Part 14*

- Approved codes of practice
- False or misleading information
- Immunity from liability
- Insurance or other indemnity against fines
- Professional privilege
- Regulation-making powers

## Part 15 – Repeals and consequential amendments

Outlines the changes from the repealed Occupational safety and health, and Mines safety and inspection legislations to the WHS legislation.

### *Key terms in Part 15*

- Amendment of previous legislation and regulations
- Repeal of previous legislation and regulations
- Transition powers

## Schedules

Schedule 1    Various offices and bodies

Schedule 2    Regulation making powers