



# Strata Title Bodies Corporate and the Work Health and Safety Laws

## FREQUENTLY ASKED QUESTIONS

### Are strata title bodies corporate of wholly residential strata schemes covered by the new work health and safety laws?

No, unless they directly employ a worker.

Under the new work health and safety (WHS) laws duties apply to 'persons conducting a business or undertaking' (PCBUs). Strata title bodies corporate are however exempt from coverage if:

- they do not engage any workers as employees, and
- the common areas the body corporate is responsible for are used only for residential purposes.

Note: this exemption does not affect duties under other laws including laws relating to negligence and strata laws more generally.

For more information on the legal difference between contractors and employees, see ['The essential handbook'](#) for independent contractors or use the online decision tool at [www.business.gov.au/contractors](http://www.business.gov.au/contractors).

### Why are residential strata schemes exempt?

The new WHS laws treat owners and occupiers of residential units or flats in the same way as owners and occupiers of detached residential dwellings.

Any place where a worker is working is a 'workplace' under the new WHS laws.

In general if work is carried out from or at a person's home:

- the person conducting the relevant business or undertaking owes general work health and safety duties to the worker
- the worker and other persons at the workplace must take reasonable care (see below for more details)
- the owner/occupier of the home does not owe duties as the 'person with management or control of the workplace'—unless the place is used as a nursing home, hospice or for similar purposes.

### Are strata title bodies corporate of wholly residential strata schemes always exempt?

No. If a strata title body corporate engages a worker as an employee (for example a caretaker) then the exemption no longer applies.

In these circumstances the strata title body corporate has the duties of a PCBU under the new WHS laws.

For more information on the legal difference between contractors and employees, see ['The essential handbook'](#) for independent contractors or use the online decision tool at [www.business.gov.au/contractors](http://www.business.gov.au/contractors).

### Does engaging people to do repairs or maintenance affect the exemption?

No. If a contractor such as a plumber or electrician is engaged to carry out maintenance or repair work then the exemption still applies.

The exemption only stops if a worker is engaged as an employee.

## Does the exemption apply if an occupant conducts a business from a residential unit?

Home-based businesses can be conducted in a residential unit without it affecting the exemption status of the strata title body corporate.

## How do the new WHS laws apply in relation to mixed and commercial strata schemes?

The exemption only applies in relation to common areas used only for residential purposes. This means that for:

- mixed residential/commercial schemes the exemption only applies to the common areas of the scheme that are used only for residential purposes, and
- commercial strata schemes the exemption does not apply.

If the exemption does not apply, then the strata title body corporate has the same duties under the WHS laws as any other PCBU in relation to the premises.

## What kinds of duties apply under the new WHS laws if no exemption applies?

If the strata title body corporate is not exempt from the WHS laws it must ensure, so far as is reasonably practicable:

- the health and safety of its workers
- the entrance and exit of a workplace and anything arising from the workplace is without risks to the health and safety of workers and other people, and
- fixtures, fittings and plant (for example machinery, appliances, equipment and tools) at a workplace are without risks to the health and safety of workers and other people at the workplace.

## How can strata title bodies corporate ensure that contractors work safely?

Strata title bodies corporate should:

- do a reference check to ensure contractors have a good safety record, and the necessary licences and insurance policies
- consult, co-operate and co-ordinate activities with contractors including
  - advise the contractor of any known risks at the workplace
  - ensure the work is satisfactory and there are no safety concerns
  - discuss and resolve safety issues that may arise, and
  - ensure the contractor prepares a safe work method statement if high-risk construction work is undertaken.

## More information

For more details on how the new WHS laws apply to strata title bodies corporate in your jurisdiction contact your [work health and safety regulator](#).