



Guidelines for the acceptance of an enforceable undertaking

Work Health and Safety Act 2011

Electrical Safety Act 2002

Safety in Recreational Water Activities Act 2011



Office of Industrial Relations
oir.qld.gov.au



This document outlines general guidelines in relation to the acceptance of the following:

1. Work Health and Safety (WHS) undertakings under the *Work Health and Safety Act 2011* (WHS Act).
2. Electrical safety undertakings under the *Electrical Safety Act 2002* (ES Act).
3. Recreational water activities health and safety undertakings under the *Safety in Recreational Water Activities Act 2011* (SRWA Act).

Within this document:

- WHS undertakings, electrical safety undertakings and recreational water activities health and safety undertakings are collectively referred to as an undertaking or enforceable undertaking (EU).
- The WHS Act, ES Act and SRWA Act are collectively referred to as the safety Acts.
- A reference to a contravention includes an alleged contravention.

This document is published in accordance with provisions of the WHS Act and the ES Act.

Preamble

EUs are high level sanctions for contraventions under the safety Acts.

EUs are prescribed under the safety Acts and governed by provisions of those Acts.

An undertaking cannot be accepted as an EU for a contravention that involves a fatality that occurs on or after 23 October 2017 or is a category 1 offence (as defined in the safety Acts).

The regulator, under the safety Acts is the person occupying the position of Deputy Director-General, Office of Industrial Relations (OIR).

The regulator is the only person who can accept an undertaking. Once accepted, the undertaking becomes an EU. The regulator or a delegate of the regulator may allow an EU to be withdrawn or varied, by agreement.

An EU is a written, legally binding commitment to implement effective health and safety initiatives that are designed to deliver tangible benefits for workers, industry, and the community.

An EU operates as an alternative to a court-imposed sanction for a contravention, without the recording of a conviction or a finding of guilt against the person. Details of an EU may form part of the work health and safety compliance record of a person.

An EU does not constitute an admission of guilt by the person giving an undertaking in relation to the contravention.

Court proceedings cannot be brought against a person for the contravention to which an EU relates if it is in effect and is being complied with or has been completely discharged. However, it is an offence for a person to contravene (not comply with) an EU.

Most undertakings are given after a legal proceeding (also called a prosecution) for the offence has been commenced. If an undertaking is accepted as an EU after a prosecution has been commenced, the proceedings will be discontinued. However, a person may give an undertaking in relation to the contravention irrespective of whether a legal proceeding has been commenced for the contravention.

Once a decision has been made by the regulator, the relevant person will be given written notice and the reasons for the decision.

If accepted, the regulator will publish the EU and the reasons for decision on the regulator's website.

If the undertaking is not accepted by the regulator, or the undertaking is withdrawn by the person prior to the regulator making a decision, legal proceedings for the contravention will continue.

This document sets out the regulator's general guidelines for the acceptance of an EU to promote openness and transparency about prosecutions and the EU acceptance process.

General exclusions

The regulator considers EUs will usually not be appropriate where any of the following circumstances exist:

- Fatalities – the contravention is connected to the death of a person, whether or not the contravention can be said to have caused the death. Where the fatality occurs on or after 23 October 2017 an EU cannot be accepted.
- Very serious injury – the contravention is connected to a person sustaining a very serious injury, whether or not the contravention can be said to have caused the very serious injury.

Under the guidelines, a very serious injury is an injury that has caused nervous system damage liable to lead to mental incapacity or permanent restriction of mobility or involves a major amputation of a limb or parts of the body – for example amputation above the knee or elbow.

- Recent criminal history- the person giving the undertaking has:
 - a recent prior conviction or finding of guilt against the safety Acts which was connected to the death of a person, whether or not the prior matter is said to have caused the death, unless the prior matter was more than five years prior to the contravention the subject of the undertaking; or
 - more than two recent prior convictions or findings of guilt against the safety Acts arising from separate investigations unless the last prior matter concluded more than five years prior to the contravention subject to the undertaking.

Preliminary process for matters within General exclusions

1. This process is in place to save the person giving the undertaking from unnecessary investment into an undertaking which falls into one of the general exclusion areas and therefore could be rejected by the regulator.
2. If the contravention to which the undertaking relates falls into any of the categories of general exclusion, the person giving the undertaking will be informed in writing of the relevant category of general exclusion applicable to the undertaking.

The person giving the undertaking will be provided the opportunity to address those issues and demonstrate that there are exceptional circumstances that apply to the case such that the undertaking should be accepted.

The submission from the person giving the undertaking should identify any exceptional circumstances that clearly demonstrate why the EU would be a more appropriate enforcement option than a prosecution of the contravention.

3. If the regulator is not satisfied that exceptional circumstances have been demonstrated the person giving the undertaking will be advised of that decision, with reasons.
4. If the regulator is satisfied that exceptional circumstances have been demonstrated the person giving the undertaking will be advised and the EU process will continue.

Guidelines for acceptance

1. To allow for the timely development and effective monitoring of an EU, it needs to be in a written format that covers essential details of both a procedural and substantive nature. Details of the types of procedural matters the regulator requires are shown within the *EU template* at Annexure A and the *OIR EU Program Timeframes/Service Standards* at Annexure B.
2. Where an undertaking being given is an alternative to prosecution, the quantum or effect of the undertaking must be commensurate with and account for, the benefits that accrue to the applicant due to the prosecution being discontinued.

The benefits of avoiding court proceedings, including obviating a possible recorded conviction and other sentencing outcomes, must be reflected in the quantum or effect of the undertaking, that is, those non-tangible benefits of avoiding prosecution must be reflected in the tangible benefits required as part of the undertaking.

3. All persons are obliged to comply with their duties under the safety Acts. Therefore, any term of an EU that merely represents ordinary expected compliance with the safety Acts cannot be considered for the purposes of an EU.
4. For an undertaking to be accepted, the regulator requires terms that promote the objects or purposes of the safety Acts for the benefit of one or more of the following:
 - a. the workers/others
 - b. industry
 - c. community.
5. The regulator requires a person giving an undertaking to have an Occupational Health and Safety Management System (OHSMS) in place or alternatively commits to implementing one as part of the terms of an undertaking. The OHSMS must conform with *AS/NZS ISO 45001:2018 (Occupational health and safety management systems - Requirements with guidance for use)*, or an acceptable alternative, and must include certified third-party auditing of the OHSMS that is acceptable to the regulator.
6. When deciding whether to accept an undertaking, the regulator will consider a number of factors, including:
 - a. the objective gravity of the contravention and the nature of the applicant's alleged misconduct (the greater the gravity of the contravention, the less likely the undertaking being given will be accepted)
 - b. meeting timeframe expectations set out in Annexure B, OIR EU Program Timeframes/Service Standards
 - c. submissions received from any relevant party, including any injured worker/s in relation to the contravention
 - d. the person's conduct in respect of mitigation and remedial action, regarding both the contravention and any person effected by the contravention
 - e. the person's past performance and history of compliance with the safety Acts, including the management of workers' compensation
 - f. any other matter which the regulator considers relevant.

Further information

The OIR EU Unit offers an advisory service to a person giving an undertaking. The advisory service is considered by OIR as being beneficial as it allows the person giving the undertaking to better determine if an EU is a feasible and appropriate alternative to prosecution for a contravention of the safety Acts.

All communication with the advisory service is on a without prejudice basis and will be conducted directly with the person or giving an undertaking or the person's legal representatives, if preferred.

The advisory service does not refer or recommend service providers or businesses to assist in preparing an undertaking or to partner on terms under an EU.

It remains the obligation of the person giving the undertaking to identify potential terms for the undertaking and source any business partners or professional advisory services to assist in preparing and completing terms of the undertaking. [Getting help with safety](#) provides tips for selecting external consultants.

Any decision made regarding the acceptance of an EU rests solely with the regulator. To reach a decision the regulator will independently exercise decision making powers under the safety Acts.

For further information or to access the advisory service, please contact the EU Unit at enforceableundertaking@oir.qld.gov.au.



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Annexure A

(This annexure provides the suggested format for an enforceable undertaking)

ENFORCEABLE UNDERTAKING

Part 11, Work Health and Safety Act 2011

or

Part 3, Electrical Safety Act 2002

or

Part 4, Safety in Recreational Water Activities Act 2011

(Remove safety Act reference that does not apply)

The commitments in this undertaking are offered to the regulator by:

[Insert the person / entity (legal name)]

ABN / ACN [Insert ABN / ACN]

COMMENCEMENT OF UNDERTAKING

This enforceable undertaking is given on the day and date that it is accepted and signed by the regulator. The undertaking and its enforceable terms will commence to operate as a legally binding commitment on the part of the person from the date it is given.

DEFINITIONS

Contravention means an alleged contravention under the safety Acts.

Electrical safety undertaking or undertaking or enforceable undertaking means a written undertaking given under Part 3 of the *Electrical Safety Act 2002* by a person in connection with a matter relating to a contravention or alleged contravention by the person of the *Electrical Safety Act 2002* and includes all of the contents of that document including the general information, general and enforceable terms.

OIR means the Office of Industrial Relations.

OHSMS means an Occupational Health and Safety Management System.

person means an individual who, or a legal entity which, has a duty under the *Work Health and Safety Act 2011*, the *Electrical Safety Act 2002* or the *Safety in Recreational Water Activities Act 2011* and can give a written undertaking. The term includes individuals, each partner in a partnership, corporations, individuals or corporations as trustees of trusts, statutory corporations, public authorities, the State of Queensland, the Commonwealth of Australia and other Australian states and territories.

Recreational water activities health and safety undertaking or undertaking or enforceable undertaking means a written undertaking given under Part 4 of the *Safety in Recreational Water Activities Act 2011* (in conjunction with Part 11 of the *Work Health and Safety Act 2011*) by a person in connection with a matter relating to a contravention or alleged contravention by the person of the *Safety in Recreational Water Activities Act 2011* and includes all of the contents of that document including the general information, general and enforceable terms.

regulator means the Deputy Director-General, Office of Industrial Relations, being the person appointed by the Governor in Council as regulator under the Safety Acts.

safety Acts means *Work Health and Safety Act 2011*, *Electrical Safety Act 2002* and *Safety in Recreational Water Activities Act 2011*.

Very Serious Injury means, for this publication, an injury that has caused nervous system damage liable to lead to mental incapacity or permanent restriction of mobility or involves a major amputation a major amputation of a limb or part of the body – for example amputation above the knee or elbow.

WHS undertaking or undertaking or enforceable undertaking means a written undertaking given under Part 11 of the *Work Health and Safety Act 2011* by a person in connection with a matter relating to a contravention or alleged contravention by the person of the *Work Health and Safety Act 2011* and includes all of the contents of that document including the general information, general and enforceable terms.

PRIVACY STATEMENT

The OIR respects your privacy and is committed to protecting personal information. The information provided in this document is for the purpose of an undertaking given to the regulator under Part 11 of the *Work Health and Safety Act 2011*, Part 3 of the *Electrical Safety Act 2002* or Part 4 of the *Safety in Recreational Water Activities Act 2011*. This information will be managed within the requirements of the current state government privacy regime.

The OIR may publish the undertaking and information contained in it for purposes identified in the undertaking or for other appropriate purposes in publications such as newspapers and on its website. The OIR may be required to disclose personal information to other agencies such as the Queensland Police Service and WorkCover Queensland in accordance with enforcement activities that may be conducted as part of an investigation. Information on our privacy policy is available at worksafe.qld.gov.au.

[Insert the person / entity name here]

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SECTION 1: GENERAL INFORMATION

1.1 Details of the person giving the undertaking

Person / Entity	[Enter details here] (Person giving the undertaking)
Street address:	[Enter details here] (Provide primary street address for person/entity)
Mailing address:	[Enter details here] (Provide PO Box details or 'As above')
Telephone:	[Enter details here] (Provide general business contact number)
Email address:	[Enter details here] (Provide general enquiry email address)
Legal structure:	[Enter details here] (Provide structure as per ASIC e.g. Sole Trader, Company, Trust, Corporation)
Type of business/industry:	[Enter details here] (Provide main business/industry)
Commencement date:	[Enter date here] (Provide date business started)
Workers:	Full time: [Enter number here] Part time: [Enter number here] Casual: [Enter number here]
Products and services:	[Enter information here] (Provide detail on business product/services)
Comments:	[Enter comments here] (Provide any other relevant information regarding the business)

1.2 Detail the contravention

(This should reflect the details of the Complaint and Summons, omitting personal details and reference to gender)

[Enter details here]

1.3 Detail the events surrounding the contravention

(Should include factual information regarding the incident and avoid blame or opinions. Ensure personal details and reference to gender are not included)

[Enter details here]

1.4 Detail the enforcement notices issued that relate to the contravention detailed in term 1.2

(Ensure all notices issued by WHSQ/ESO that relate to the contravention are included)

Not Applicable (Tick if there were no notices issued in relation to the contravention)

Date issued	Notice type	Notice number	Contravention or prohibited activity	Action taken in response to notice

1.5 Detail the injury sustained or illness suffered by worker/s or other/s as a consequence of the contravention detailed in term 1.2

(Should include factual information regarding the injury or illness. Ensure personal details, names and reference to gender are not included)

[Enter details here]

[Insert the person / entity name here]

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1.6 Detail the employment status and the workers' compensation or other insurance status regarding the worker/s who sustained injury or suffered illness as detailed in term 1.5
(Should include factual information. Ensure personal details, names, reference to gender and any compensation payment details are not included)

The worker/s detailed is: *(Check box below that applies to the worker/s status at the time of the incident)*

- an employee/s of the entity
- a self-employed worker/s
- other - [Enter details of 'other' here]
- not applicable

Status: [Enter status details here]
(This should reflect the status of any claims and level of recovery/return to work that is applicable)

1.7 Detail the support provided or proposed by the person to the injured worker/s and/or family or other/s
(Should include factual information. Ensure personal details, names and reference to gender are not included.)

Date	Description of support	Comments

1.8 Detail any current OHSMS implemented and maintained by the person
(Describe how health and safety risks are managed, including types of procedures or policies or standards)

[Enter details here]

1.9 Detail the level of auditing undertaken on the OHSMS referred to in term 1.8, including compliance audits and audit frequency

[Enter details here]

1.10 Detail the consultation undertaken or proposed to be undertaken, in relation to this undertaking
(This should reflect any consultation (internal/external) undertaken in developing the undertaking (e.g., workers, managers, safety committees, health and safety representatives (HSRs), injured worker/s, external consultants, unions)

[Enter details here]

1.11 Detail the rectifications to the workplace or work practices made as a result of the contravention and events detailed in terms 1.2 and 1.3 and the enforcement notices issued as detailed in term 1.4

[Enter details here]

(This should reflect all measures, taken to rectify the contravention, post incident)

Total amount spent on rectifications

\$ [insert amount here]

SECTION 2: GENERAL TERMS

The person acknowledges and commits to the general terms set forth in the sub-terms below.

2.1 Acknowledgement that the regulator alleges a contravention occurred as detailed in term 1.2

[Enter statement here]

2.2 Statement of regret that the contravention occurred and the reasons the person considers this undertaking is a more appropriate response to the contravention than a court imposed sanction

(This should not include an admission of guilt)

[Enter statement here]

2.3 Statement of commitment that the behaviour, activities and other factors which caused or led to the contravention has ceased and will not reoccur

[Enter statement here]

2.4 Acknowledgment of the guidelines published by the regulator for the acceptance of an undertaking

I have read and understood:

Guidelines for the acceptance of an enforceable undertaking

Version: [Enter version number here] Dated: [Enter date here]

2.5 Acknowledgement that this undertaking may be published and publicised

2.5.1 [insert person] acknowledges that the undertaking may be published on the OIR's website and referenced in OIR material.

2.5.2 [insert person] acknowledges that the undertaking may be publicised in newspapers.

2.6 Statement of the person's ability to comply with the terms of this undertaking and meet the projected costs of the activities

2.6.1 [insert person] has the financial ability to comply with the terms of this undertaking and have provided evidence by way of [insert type of evidence provided e.g. CFO/accountant letter] with this undertaking to support this declaration.

2.6.2 In the event of loss or withdrawal of a required industry specific license, impending liquidation or sale of the entity, [insert person] will advise OIR of the relevant circumstances and its capacity to comply with the outstanding terms of this undertaking.

2.7 Statement regarding person's relationship with any corporations, officers, employees, contractors, proposed beneficiaries of donations or scholarship or other recipient of financial benefit contained in this undertaking

[Enter statement here]

[Insert the person / entity name here]

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2.8 Statement regarding Intellectual Property Licence

[Insert person], grants OIR a permanent, irrevocable, royalty-free, world-wide, non-exclusive licence to use, reproduce, publish, distribute, electronically transmit, electronically distribute, adapt and modify any materials developed as a result of this undertaking.

2.9 Acknowledgement that the person may be required to provide a statutory declaration *(Click on check box below that applies)*

OIR has requested a statutory declaration outlining details of any prior convictions, subject to any local legal constraints such as spent conviction legislation, or findings of guilt under the safety Acts.

YES

NO

The statutory declaration has been provided to OIR (if applicable)

YES

NO

2.10 Statement of commitment from the person to participate constructively in all compliance monitoring activities for this undertaking

2.10.1 It is acknowledged that responsibility for demonstrating compliance with this undertaking rests with the person.

2.10.2 Evidence to demonstrate compliance with the terms will be provided to OIR by the due date for each term.

2.10.3 The evidence provided to demonstrate compliance with this undertaking will be retained by the person until advised by the regulator, that this undertaking has been completely discharged.

2.10.4 It is acknowledged that any failure to meet the due date for an enforceable term will result in the matter being escalated and may lead to enforcement action.

2.10.5 It is acknowledged that OIR may undertake other compliance monitoring activities to verify the evidence and compliance with an enforceable term, and cooperation will be provided to OIR.

2.10.6 It is acknowledged that OIR may initiate additional compliance monitoring activities, such as inspections, as considered necessary at OIR's expense.

2.11 A commitment by the person to perform activities that will ensure the ongoing effective management of risks to health and safety in the future conduct of its business or undertaking

(Detail the management strategies to be employed that will satisfy and demonstrate that this commitment is being met)

[Enter details here]

2.12 A commitment that any undertaking activities that promote or benefit the person are linked to this undertaking

(Activities that may promote or benefit the person need to link the activity/benefit to this undertaking)

[Enter statement here]

[Insert the person / entity name here]

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SECTION 3: ENFORCEABLE TERMS

The person acknowledges all activities set forth in the enforceable terms below will be auditable and details of each activity will include:

- a term number for each activity
- how the activity will benefit workers/others, industry and the community
- evidence that will be provided to meet compliance
- a minimum cost
- timeframes for completion.

The person commits to performing the activities below diligently, competently and provide evidence by the respective completion date.

3.1 A commitment by the person to disseminate information about this undertaking to workers, and other relevant parties

(This may include dissemination to internal and external stakeholders (e.g. executive teams, all workers and work health and safety representatives, if applicable))

Activities	Minimum cost	Timeframe
3.1.1 [Enter activity title] [Enter details of the proposed activity including how information regarding this undertaking will be disseminated.] Benefit [Enter details of the benefits that will apply for the above activity] Evidence [Enter details of the type of evidence that will be provided to meet compliance]	\$ [Enter minimum cost here if applicable or Nil cost attributed to this undertaking]	[Enter number here] months from the acceptance of the EU <i>(This will be converted to a specific date based on the date of EU acceptance)</i>
3.1.2 [Enter activity title] Benefit Evidence	\$	xx months from the acceptance of the EU
Total minimum cost of dissemination		[\$[Enter total minimum cost / or Nil cost]

[Insert the person / entity name here]

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3.2 Activities to be undertaken to promote the objects of the safety Acts that will deliver benefits for workers/others

Activities		Minimum cost	Timeframe
3.2.1	<p>[Enter activity title]</p> <p>[Enter activity details here.]</p> <p>Benefit [Enter details of the benefits that will apply for the above activity]</p> <p>Evidence [Enter details of the type of evidence that will be provided to meet compliance]</p>	\$ [Enter minimum cost here if applicable or Nil cost attributed to this undertaking]	<p>[Enter number here] months from the acceptance of the EU</p> <p><i>(Timeframe will be converted to a specific date based on the date of EU acceptance)</i></p>
3.2.2	<p>[Enter activity title]</p> <p>Benefit</p> <p>Evidence</p>	\$	xx months from the acceptance of the EU
Total minimum cost of benefits to workers/others		\$[Enter total minimum cost here]	

3.3 Activities to be undertaken to promote the objects of the safety Acts that will deliver benefits for industry

Activities		Minimum cost	Timeframe
3.3.1	<p>[Enter activity title]</p> <p>[Enter activity details here.]</p> <p>Benefit [Enter details of the benefits that will apply for the above activity]</p> <p>Evidence [Enter details of the type of evidence that will be provided to meet compliance]</p>	\$ [Enter minimum cost here if applicable or Nil cost attributed to this undertaking]	<p>[Enter number here] months from the acceptance of the EU</p> <p><i>(Timeframe will be converted to a specific date based on the date of EU acceptance)</i></p>

[Insert the person / entity name here]

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3.3.2	<p>[Enter activity title]</p> <p>Benefit</p> <p>Evidence</p>	\$ [Enter minimum cost here if applicable or Nil cost attributed to this undertaking]	[Enter number here] months from the acceptance of the EU
Total minimum cost of benefits to industry		\$[Enter total minimum cost here]	

3.4 Activities to be undertaken to promote the objects of the safety Acts that will deliver benefits for community

Activities	Minimum cost	Timeframe
3.4.1	<p>[Enter activity title]</p> <p>[Enter activity details here.]</p> <p>Benefit</p> <p>[Enter details of the benefits that will apply for the above activity]</p> <p>Evidence</p> <p>[Enter details of the type of evidence that will be provided to meet compliance]</p>	<p>\$ [Enter minimum cost here if applicable or Nil cost attributed to this undertaking]</p> <p>(Timeframe will be converted to a specific date based on the date of EU acceptance)</p>
3.4.2	<p>[Enter activity title]</p> <p>Benefit</p> <p>Evidence</p>	<p>\$ [Enter minimum cost here if applicable or Nil cost attributed to this undertaking]</p> <p>[Enter number here] months from the acceptance of the EU</p>
Total minimum cost of benefits for community		\$[Enter total minimum cost here]

[Insert the person / entity name here]

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3.5 Agreement to pay the OIR's recoverable costs

(These amounts will be provided by OIR once a notification to proceed is provided. Amounts are only payable if the undertaking is accepted as an EU by the regulator)

3.5.1 [Insert person] agrees to pay OIR's costs associated with this undertaking, as itemised below, and it is acknowledged that payment is due 30 days after receiving the OIR invoice:

Recoverable costs	Amount
Administrative costs	\$
Legal costs	\$
Compliance monitoring costs	\$
Publication costs	\$
Total of OIR recoverable costs	\$

3.6 Minimum costs for undertaking

3.6.1 [Insert person] acknowledges the minimum cost for this undertaking will comprise of the following:
(The amounts below should correspond with total amounts from terms 3.2–3.5 above)

Undertaking benefits and recoverable costs	Total minimum cost
Benefits to workers/others (Term 3.2)	\$
Benefits to industry (Term 3.3)	\$
Benefits to community (Term 3.4)	\$
OIR recoverable costs (Term 3.5)	\$
Total minimum cost for the undertaking	\$

3.6.2 [Insert person] agrees to spend any residual amount arising from the total minimum cost value not being met. Agreement on how to spend this residual amount will be sought from the regulator.

3.7 A commitment to [establish and maintain or maintain *(delete wording as required)*] an OHSMS

(Delete the irrelevant terms below. If required contact OIR to determine which option is appropriate)

(No formal documented OHSMS in place)

3.7.1 [Insert person] acknowledges there is no formal documented OHSMS in place.

3.7.2 [Insert person] commits to ensuring that an OHSMS acceptable to the regulator conforms with AS/NZS ISO 45001:2018 (*Occupational health and safety management systems - Requirements with guidance for use*) and will be implemented within 15 months of the acceptance of this undertaking.

3.7.3 [Insert person] acknowledges that the OHSMS will be maintained and conforms with AS/NZS ISO 45001:2018 (*Occupational health and safety management systems - Requirements with guidance for use*).

or

(OHSMS in place that conforms with AS/NZS ISO 45001:2018)

3.7.1 [Insert person] acknowledges there is a formal documented OHSMS in place acceptable to the regulator that conforms with AS/NZS ISO 45001:2018 (*Occupational health and safety management systems - Requirements with guidance for use*).

3.7.2 [Insert person] commits to ensuring that the OHSMS will be maintained and conforms with AS/NZS ISO 45001:2018 (Occupational health and safety management systems - Requirements with guidance for use).

or

(OHSMS in place that does not conform with AS/NZS ISO 45001:2018)

3.7.1 [Insert person] acknowledges there is a formal documented OHSMS in place that does not conform with AS/NZS ISO 45001:2018 (Occupational health and safety management systems - Requirements with guidance for use).

3.7.2 [Insert person] commits to ensuring that within 15 months of the acceptance of this undertaking the OHSMS shall be acceptable to the regular that conforms with AS/NZS ISO 45001:2018 (Occupational health and safety management systems - Requirements with guidance for use).

3.7.3 [Insert person] acknowledges that the OHSMS will be maintained and conforms with AS/NZS ISO 45001:2018 (Occupational health and safety management systems - Requirements with guidance for use).

3.8 A commitment to ensure the OHSMS is audited by a certified third-party auditor

(Delete the irrelevant terms below for 3.8.6. If required contact OIR to determine which option is appropriate)

3.8.1 [Insert person] acknowledges that the certified third-party auditor selected to perform OHSMS audits must meet the qualification requirements as set by the regulator.

3.8.2 [Insert person] commits to ensuring the OHSMS will be audited by a certified third-party auditor.

3.8.3 [Insert person] acknowledges that details of the certified third-party auditors' qualifications will be provided with audit reports submitted to OIR under 3.9.3.

3.8.4 [Insert person] acknowledges that costs associated with these audits will be met by [Insert person] as part of the undertaking.

3.8.5 [Insert person] commits to ensuring the OHSMS will be audited against criteria that conforms with AS/NZS ISO 45001:2018 (Occupational health and safety management systems - Requirements with guidance for use).

3.8.6 [Insert person] acknowledges that there is no OHSMS in place, as detailed in term 3.7.1 that is acceptable to the regulator and commits to ensuring that an initial third-party audit will be undertaken within three months of this undertaking being accepted.

3.8.7 [Insert person] commits to ensuring at least two further third-party audits will be undertaken at 12-month intervals, commencing 12 months after the initial audit.

or

3.8.6 [Insert person] acknowledges that the OHSMS in place, as detailed in term 3.7.1 does not conform with AS/NZS ISO 45001:2018 (Occupational health and safety management systems - Requirements with guidance for use) and commits to ensuring that an initial third-party audit will be undertaken within three months of this undertaking being accepted.

3.8.7 [Insert person] commits to ensuring at least two further third-party audits will be undertaken at 12-month intervals, commencing 12 months after the initial audit.

or

3.8.6 [Insert person] acknowledges that the current OHSMS in place, as detailed in term 3.7.1 is acceptable to the regulator and commits to ensuring that an initial third-party audit will be undertaken within three months of this undertaking being accepted.

3.8.7 [Insert person] commits to ensuring at least two further third-party audits will be undertaken at 12-month intervals, commencing 12 months after the initial audit.

3.9 A commitment to provide a copy of each finalised OHSMS audit report to OIR

- 3.9.1 It is acknowledged that audit reports received from the auditor will be sent to OIR within 30 days of the audit, including written confirmation that the report has not been altered from the copy provided to the person by the auditor.
- 3.9.2 It is acknowledged that within 30 days of receipt of the auditor's written report, OIR will be advised of the intended actions for addressing each of the report's recommendations.
- 3.9.3 It is acknowledged that the auditors' qualifications will be provided with audit reports submitted to OIR.

3.10 A commitment to implement the recommendations from third-party audits

- 3.10.1 [Insert person] commits to ensuring the recommendations resulting from the first OHSMS audit, as detailed in 3.9.2 will be fully implemented and recorded as actioned by the auditor within the second OHSMS audit report, unless OIR grants an exemption due to the actions being unreasonable.
- 3.10.2 [Insert person] commits to ensuring the recommendations resulting from the second OHSMS audit, as detailed in 3.9.2 will be fully implemented and recorded as actioned by the auditor within the third OHSMS audit report, unless OIR grants an exemption due to the actions being unreasonable.
- 3.10.3 [Insert person] commits to ensuring the recommendations resulting from the third OHSMS audit, as detailed in 3.9.2 will be fully implemented within six months of receiving the third OHSMS report, unless OIR grants an exemption due to the actions being unreasonable.
- 3.10.4 [Insert person] commits to providing a detailed action plan or statutory declaration by an authorised officer of [Insert person] confirming recommendations arising from the third OHSMS audit have been fully implemented, unless OIR grants an exemption due to the actions being unreasonable.

SECTION 4: EXECUTION

This undertaking is given by the person on the date it is accepted by the regulator as set forth in section 5 below.
(Select from the following execution clauses and delete those that do not apply)

(INDIVIDUAL)

SIGNED by the person

Name of person

Signature of person

on the [DAY] day of [MONTH], 20[YEAR]

before me:

Signature of Witness

Name of Witness in full

Witness address

Witness address

Witness address

[Insert the person / entity name here]

Version: [Insert version number here]

Date: [Insert version date here]

(PARTNERSHIP)

SIGNED by the Partner/s

Name of Partner

Signature of Partner

Name of Partner

Signature of Partner

Name of Partner

Signature of Partner

on the [DAY] day of [MONTH], 20[YEAR]

before me:

Signature of Witness

Name of Witness in full

Witness address

Witness address

Witness address

[Insert the person / entity name here]

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Version: [Insert version number here]

Date: [Insert version date here]

(INDIVIDUAL TRUSTEE OF A TRUST)

SIGNED by the Trustee

Name of Trustee

Signature of Trustee

in their own right and in their capacity as trustee
of the

Name of Trust

Name of Trust cont'd

on the [DAY] day of [MONTH], 20[YEAR]

before me:

Signature of Witness

Name of Witness in full

Witness address

Witness address

Witness address

[Insert the person / entity name here]

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Version: [Insert version number here]

Date: [Insert version date here]

(COMPANY)

THE COMMON SEAL of

(Affix common seal)

Company name

was affixed in accordance with the
Corporations Act 2001 in the presence of

Name of Director

Signature of Director

And

Name of Director/Secretary

Signature of Director/Secretary

on the [DAY] day of [MONTH], 20[YEAR]

before me:

Signature of Witness

Name of Witness in full

Witness address

Witness address

Witness address

[Insert the person / entity name here]

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Version: [Insert version number here]

Date: [Insert version date here]

(COMPANY AS TRUSTEE OF TRUST)

THE COMMON SEAL of

(Affix common seal)

Name of Company

was affixed in accordance with the
Corporations Act 2001 in the presence of

Name of Director

Signature of Director

and

Name of Director/Secretary

Signature of Director/Secretary

on the [DAY] day of [MONTH], 20[YEAR]

before me:

Signature of Witness

Name of Witness in full

Witness address

Witness address

Witness address

[Insert the person / entity name here]

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Version: [Insert version number here]

Date: [Insert version date here]

SECTION 5: ACCEPTANCE

This undertaking is accepted by the regulator on the _____ day of _____, 20

Signature of regulator

Name of regulator

Appointed by the Governor in Council as regulator under Schedule 2, Part 1 of the *Work Health and Safety Act 2011*, Schedule 2 of the *Electrical Safety Act 2002* and section 32 of the *Safety in Recreational Water Activities Act 2011*.

OIR EU Program - Timeframes/Service standards

The following timeframes/service standards table has been provided as a guide for the Office of Industrial Relations (OIR), the person giving an undertaking and/or their representative to ensure each phase of the EU Program is progressed and completed in a timely manner. There is an expectation that if the following timeframes/service standards cannot be met, the responsible party will contact and seek to renegotiate a timeframe/service standard suitable to all parties.

Please note: The level of commitment shown in meeting these timeframes will be taken into consideration by the regulator when deciding to accept or reject an undertaking.

Timeframe/Service standards		
Event	Person/Representative	OIR
Initial request for EU advisory service	After an alleged contravention or complaint and summons.	
Introductory email regarding EU process		7 days from initial request
Meeting between person/representative and EU Unit (EUU)		14 days from initial request
Notification of interest to give an undertaking	7 – 14 days from meeting with EUU	
Acknowledge receipt of notification		7 days from receipt of notification
Draft undertaking (Version 1) (template example at Annexure A)	28 days from receipt of the notification	
EUU review and initial feedback of undertaking (Version 1)		21 days from receipt of undertaking (Version 1)
Re-submission of revised undertaking (Version 2)	14 days from receipt of initial feedback	
EUU feedback of Version 2 and any subsequent versions of undertaking	14 days from feedback	7 days from re-submission
Final version of undertaking for evaluation by EU Panel (EUP)	14 days from EUU feedback on resubmission/s	
EUP meeting to evaluate final version of undertaking		28 days from receipt of final undertaking
EUP evaluation feedback or recommendation to accept or reject		7 days from EUP evaluation meeting
Re-submission of final undertaking for EUP return evaluation	14 days from receipt of EUP feedback	
EUP return evaluation feedback or recommendation to accept or reject		7 days from re-submission
Submission of signed final undertaking for decision by regulator	14 days from receipt of EUP recommendation	
Request for a decision by the regulator		14 days from submission of signed final undertaking
Regulator makes a decision* on whether to accept or reject		28 days from request of decision
Letter advising of decision and reasons for decision		7 days from decision being made
Publication of EU and reason for decision if accepted		28 days from decision

Decision* - If the regulator intends to reject, the person giving the undertaking will be provided an opportunity to make a final submission addressing the regulators reasons for decision prior to a final decision being made. Timeframes for this process will be negotiated between OIR and the person or representative.