Obligations to employees

MODULE 4 | PART B.2 | STUDENT COMPANION

Employees, including executives, are central stakeholders. Management runs the people practices, but the board approves the policies and must satisfy itself that they work.

Safe work
WHS duties to workers and anyone affected; officers' due diligence; psychosocial hazards

Fair pay
Awards, agreements and minimum wages; deliberate underpayment is a crime from 1 January 2025

Superannuation
Super guarantee of 12% from 1 July 2025; unpaid super can reach directors personally

Leave
National Employment Standards are a floor: annual, personal/carer's and parental leave

Fair recruitment
No discrimination; reasonable adjustments; honest job advertisements

Conduct and unions
A lived code of conduct; good faith bargaining; freedom to join or not join

The board approves the policies and checks they work. It can delegate the tasks, not the responsibility.

Who oversees what

Area	Main laws and bodies
Work health and safety	Model WHS laws developed through Safe Work Australia; enforced by state and territory regulators. Every state and territory now has an industrial manslaughter offence.
Pay and conditions	Fair Work Act: the Fair Work Commission sets awards and minimum wages; the Fair Work Ombudsman enforces them. Anyone knowingly involved in an underpayment can be personally liable.
Discrimination	Federal anti-discrimination laws (age, sex, race, disability), overseen by the Australian Human Rights Commission. Applicants are protected as well as employees.
Job advertisements	Australian Consumer Law: it is unlawful to mislead people about a job's availability, nature or terms.
Gender equality	Larger employers report to the Workplace Gender Equality Agency.

Safety due diligence

MODULE 4 | PART B.2 | THE OFFICER'S PERSONAL DUTY

Under the model work health and safety laws, officers, including directors, must exercise due diligence to ensure the business complies with its safety duties. The six steps below summarise what that requires.

1. **Know**
   Keep safety knowledge up to date
2. **Understand**
   Know the operations and the hazards they create
3. **Resource**
   Provide resources and processes to remove or reduce risks
4. **Respond**
   Make sure incidents and hazards are reported and acted on quickly
5. **Comply**
   Make sure processes exist to meet every legal safety duty
6. **Verify**
   Check that the resources and processes are actually used

Dreamworld, 2016: four deaths on the Thunder River Rapids ride

Ardent Leisure fined $3.6 million in 2020 for failing its primary safety duty. Policies on paper are not enough.

Pay, super and leave at a glance

- **Underpayment:** since 1 January 2025, intentionally underpaying wages or entitlements is a federal crime (up to 10 years' jail for individuals). Honest mistakes are not the target.
- **Salaries:** an annual salary must still cover at least what the award would pay for the hours actually worked.
- **Super guarantee:** 12% of eligible earnings from 1 July 2025, the final scheduled step up.
- **National Employment Standards:** include 4 weeks' paid annual leave (full-time), 10 days' paid personal/carer's leave, and up to 12 months' unpaid parental leave with a right to request more.

Real case: Ardent Leisure Ltd, Southport Magistrates Court, 28 September 2020 ($3.6 million, three charges under the Work Health and Safety Act 2011 (Qld)). Lantern Cafes, Harbourview Freight, Ridgeline Quarries and Tidewater Logistics are imagined examples. Study guide reference: Module 4, Part B, section 4.6.

Practice questions

MODULE 4 | PART B.2 | TRY THESE BEFORE THE WORKED ANSWERS

Question 1 - due diligence at Ridgeline Quarries

Imagine **Ridgeline Quarries Ltd**. Its board receives one safety number each month: the lost-time injury rate, which is low. Site safety audits are eight months overdue, two directors have never visited a quarry, and a near miss involving a reversing haul truck was never reported beyond the site manager. Using the six due diligence steps, identify the gaps and say what the directors should do.

Question 2 - is the salary enough?

Imagine **Lantern Cafes Pty Ltd** pays its kitchen manager a salary of **$86,000** a year. She works 50 hours every week for 52 weeks. Assume illustrative award terms: an ordinary rate of $32 an hour for the first 38 hours, and $48 an hour (time and a half) for every hour over 38. Ignore leave, loading and super. (a) What would the award have paid for the year? (b) Is there a shortfall, and how much? (c) What should the company do?

Question 3 - spot the problems

Imagine **Tidewater Logistics Pty Ltd** advertises: 'Warehouse team leader - permanent full-time. Applicants must be aged 25 to 40, with no young children. $78,000 plus super.' The role is actually a six-month casual contract. During hiring, the manager rejects a strong applicant who uses a wheelchair, without considering whether the workplace could be adjusted. List each problem and explain why it matters.

Worked answers

MODULE 4 | PART B.2 | WORKED ANSWERS - ATTEMPT THE QUESTIONS FIRST

Question 1 - Ridgeline Quarries

Due diligence step	Gap at Ridgeline	What the directors should do
Know and understand	Two directors have never seen the operations; one lagging measure tells them little.	Visit sites, get briefings on the main hazards (haul trucks, blasting, dust) and ask for leading indicators.
Resource	Overdue audits suggest safety work is under-resourced.	Fund and schedule the audits; check staffing and equipment for critical controls.
Respond	A serious near miss never reached the board.	Require prompt reporting of near misses and serious incidents, with actions and follow-up.
Comply and verify	No evidence the board checks whether processes work.	Ask for audit results, independent verification and a tracked action plan at every meeting.

A low injury rate can hide serious risk. Near misses are free lessons: the board should want to hear about them.

Question 2 - Lantern Cafes

- **(a)** Weekly award amount: 38 x $32 = $1,216, plus 12 x $48 = $576, total **$1,792**. For 52 weeks: **$93,184**.
- **(b)** Yes. $93,184 - $86,000 = **$7,184** short for the year.
- **(c)** Pay the shortfall promptly, review the salary against actual hours regularly, and fix the process. A deliberate decision not to pay could now be a crime, and anyone knowingly involved could be personally liable.

Question 3 - Tidewater Logistics

- **Age limit (25 to 40):** age discrimination against applicants outside the range.
- **'No young children':** discrimination based on family or carer responsibilities.
- **Wheelchair user rejected without considering adjustments:** likely disability discrimination; the employer must consider reasonable adjustments unless they would cause unjustifiable hardship.
- **'Permanent full-time' when it is a six-month casual contract:** misleading people about the nature and terms of a job, which the Australian Consumer Law prohibits.

Fix: define the genuine requirements of the role, assess every applicant against them, and describe the job accurately.