

Work Health and Safety Act 2012 (SA)

Part 11 Enforceable Undertaking

REASON FOR DECISION

Entity: 24 Power Fit Pty Ltd
ABN: 63 647 756 778
Entity Address: 550 Marion Road, Plympton Park, SA 5038
Location of incident: 550 Marion Road, Plympton Park, SA 5038
Date of incident: Between 1 May 2023 and 24 June 2023

1. History of the application

- 1.1 The undertaking given by 24 Power Fit Pty Ltd relates to an alleged contravention that occurred at 550 Marion Road, Plympton Park, SA 5038 (the workplace).
- 1.2 Between 1 May 2023 and 24 June 2023, renovation works were occurring at the workplace. During these works it became possible that workers and others were exposed to the risk of airborne asbestos fibres.
- 1.3 Following an investigation by SafeWork SA (SWSA) inspectors, prosecution action (category 3 charge) was commenced by the Crown Solicitors Office (by complaint and summons) against 24 Power Fit Pty Ltd, who had a health and safety duty pursuant to section 19(1),(2) and (3)(a) of the Work Health and Safety Act 2012 (SA) (the WHS Act), for failing to comply, so far as a reasonably practicable, with the duty contrary to section 19(1),(2) and (3)(a) WHS Act.
- 1.4 On 25 July 2025, 24 Power Fit Pty Ltd via legal representation contacted SWSA Regulatory Assurance Unit notifying of its intention to submit an enforceable undertaking (EU) for this matter.
- 1.5 On 24 March 2026, after negotiations with 24 Power Fit Pty Ltd a final submission was presented for assessment. The assessment panel completed an evaluation of the revised EU and based on the amendments made to the EU and supporting documents received, the EU was recommended to be considered for acceptance by the Regulator.

2. Legislation and Policy

- 2.1 It is alleged that 24 Power Fit Pty Ltd, which had a health and safety duty pursuant to section 19(1), (2) and (3)(a) of the WHS Act failed to comply, so far as reasonably practicable, with the duty contrary to section 19(1), (2) and (3)(a) of the WHS Act.
- 2.2. Pursuant to section 216 (1) of the WHS Act the WHS regulator may accept a written undertaking given by a person in connection with a matter relating to a contravention.
- 2.3. Pursuant to section 217(2) of the WHS Act, the WHS regulator must issue, and publish on the WHS regulator's website, general guidelines in relation to the acceptance of WHS undertakings under the WHS Act.

3. Material and evidence considered by WHS regulator

- 3.1 In deciding this matter, the WHS Regulator has considered the following documents:
 1. Work Health and Safety Act, 2012(SA) & Regulations 2012(SA).
 2. National Compliance and Enforcement Policy (Part 7 criteria).
 3. SWSA Guidelines for the acceptance of an enforceable undertaking – dated 2026.
 4. WHS EU submitted by PCBU on 24 March 2026.
 5. Complaint and Summons prepared by Crown Solicitors Office.
 6. Brief of Evidence prepared by the SWSA Investigator.

4. Findings on material questions of fact – Regulator

- 4.1. I regard the Guidelines for the acceptance of an enforceable undertaking dated April 2026, contains considerations which are relevant and appropriate to my decision.
- 4.2. I find the undertaking given by 24 Power Fit Pty Ltd satisfies the formal requirements of the WHS Act and the policy requirements discussed above with respect to the operation of Part 11 of the WHS Act, as they have been published.
- 4.3. I find the factual background to the alleged contravention is set out in section 1 of the 24 Power Fit Pty Ltd.'s undertaking.
- 4.4. The quantum of the undertaking and the respective financial commitments of 24 Power Fit Pty Ltd are proportionate to the gravity of the alleged contraventions by 24 Power Fit Pty Ltd and account for the benefits to them avoiding prosecution.
- 4.5. I find that 24 Power Fit Pty Ltd, who had a health and safety duty under the WHS Act, has failed to comply, so far as reasonably practicable, with that duty contrary to section 19(1), (2) and (3)(a) of the WHS Act. I find that 2 Power Fit Pty Ltd

have acknowledged the alleged contraventions and shown regret regarding the occurrence and the consequences of the alleged contravention.

- 4.6. I acknowledge the assurance given by 24 Power Fit Pty Ltd that the conduct that led to the alleged contravention has ceased and the commitment to ensuring the ongoing effective management of risks to health and safety in the future.
- 4.8. I find the undertaking commits 24 Power Fit Pty Ltd to a standard that is higher than the recognised compliance for the activity and/or to activities over and beyond recognised compliance levels.
- 4.9. I find the undertaking would constitute tangible benefits for workers, industry, and the community.

5. Decision

- 5.1 In making my decision, I have considered and had regard to the evidence and other material referred to in paragraph 3 above, and to my findings referred to in paragraph 4 above.
- 5.2 Because 24 Power Fit Pty Ltd have submitted an EU application, in accordance with the requirements of the WHS Act and policy, my power whether to accept the undertaking under section 216(1) of the WHS Act is enlivened.
- 5.3 Based on the evidence, findings and having regard to the objects of the WHS Act, I have carefully considered this matter, and I believe the undertaking given by 24 Power Fit Pty Ltd is an appropriate enforcement option.
- 5.4 I have concluded that an EU is the preferred enforcement option, rather than continuing with prosecution, with regard to the opportunity to provide lasting organisational change within 24 Power Fit Pty Ltd and the implementation of monitored and targeted health and safety improvements that will deliver benefits to workers, industry, and the community.
- 5.4 Under section 216(1) of the WHS Act, it is my decision to accept 24 Power Fit Pty Ltd.'s Enforceable Undertaking dated 7 May 2026.



Glenn Farrell
Executive Director
SafeWork SA
20 May 2026