

Undertaking to the Executive Director, SafeWork SA

by

The Scout Association of Australia (South Australian Branch) Inc.

ABN 35 621 021 366

(Enforceable Undertaking)

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Section 1 - General Information

GI(a) details of the person proposing the undertaking

Street address 211 Glen Osmond Road,
Frewville SA 5063

Mailing address As above

Telephone 08 8130 6000 Mobile: 0416 166 545

Email address Dan.Ryan@sahq.scouts.com.au

Legal structure Incorporated Association previously established by Royal Charter and legislation

Type of business Charity / not for profit youth organisation

Commencement date 1940

Workers Full time: 42 Part time: 8 Casual: 78

Products and services **Youth organisation, recyclables collection, retail, activity centre**

Comments

History of Scouting

The Scout Association of Australia (South Australian Branch) Inc. (**Scouts**) was brought to Australia from the United Kingdom in the early 20th Century and the South Australian branch was established in 1940 as a branch of the UK parent.

By Act of the South Australian Parliament No. 65 of 1969, a previous private Act of 1940 was repealed and Scouts was continued as a body corporate by power of the SA Parliament, its name then changed to The Australian Boy Scouts Association, South Australian Branch.

On 1 May 1972 the Governor General in Council gave approval to The Australian Boy Scouts Association to change its name to The Scout Association of Australia, pursuant to Clause 1 of the Royal Charter granted to the Association.

By amendment of the Constitution of the Australian Boy Scouts Association, South Australian Branch the name of the Corporation constituted by Act No. 65 of 1969 was changed on 26 May 1975 to the Scout Association of Australia, South Australian Branch.

Scouts Today

Scouts is a registered charity and operates under the regulatory authority of the ACNC as a charity.

Scouts' purpose is essentially to help young people being the best they can be, developing all facets of their life so they can grow to become constructive citizens in their communities. Learning life skills, growing in self-confidence and gaining valuable leadership and team skills are all part of the Scouts program.

The Scouts program is delivered by Nationally accredited trained leaders in safe, but still adventurous, environments.

Young people may progress through the five Scouting sections – Joey Scouts, Cub Scouts, Scouts, Venturer Scouts and Rovers or can start in any section depending on their ages.

Scouts meet in Scout Groups found all over the state and even for those that

live in isolated and remote parts of the State there is a Lone Scouts Group who meet via the internet and correspond in many different ways.

In order to sustainably provide accessible and affordable programs and activities to youth across South Australia's communities, Scouts operates a number of businesses to raise money for its core charitable activities including recyclable collection (10 outlets), 2 camping / outdoor clothing retail outlets and an activity centre at Woodhouse.

Apart from the incident that resulted in the worker's injury that has given rise to this undertaking, Scouts has never been charged with any offences under the Work Health Safety Act 2012 (SA) (**WHS Act**) (nor its predecessor Act/s).

GI(b) the details of the alleged contravention

SafeWork SA has alleged that Scouts has committed two offences between 6 and 8 May 2015 - an offence of failing to ensure so far as reasonably practicable that its employee, was whilst at work, was safe from serious injury, contrary to sections 19 and 32 of the WHS Act in that it failed to (a) provide and implement a traffic management system separating motor vehicles from pedestrians; (b) provide adequate information, training or supervision in relation to a traffic management system and (c) to provide and maintain a forklift in safe condition, and failing to ensure the notifiable incident site was not disturbed, contrary to section 39 of the WHS Act.

GI(c) details of the events surrounding the alleged contravention, eg, incident details

An employee of Scouts was at work when a forklift reversed and ran over his foot, causing a crush injury. The employee was taken to hospital. The site and forklift kept operating for the following 2 days.

GI(d) an acknowledgement that an alleged contravention has occurred

Scouts acknowledges that the contraventions of s 19, s 32 and s 39 of the WHS Act occurred.

GI(e) the details of any injury that arose from the alleged contravention

Right foot phalanx compound fracture, open laceration.

GI(f) the details of any enforcement notices issued that relate to the alleged contravention

Notices received:

No

Yes (provide details)

Date issued	Notice type	Notice number	Contravention	Action taken to respond to notice
8/05/15	Improvement	92813	Section 19 WHS Act, Reg 150 WHS Regulations Electrical equipment not tested	Equipment tested
8/05/15	Improvement	96817	Section 19(3)(c) WHS Act, Reg 38 WHS Regulations Traffic Management	See GI(m) below
8/05/15	Improvement	96820	Section 19 WHS Act, Reg 40 WHS Regulations Tools stored in untidy condition	Tools tidied and organised
8/05/15	Improvement	96823	Section 19 WHS Act, Reg 41 WHS Regulations No access to clean readily available drinking water	Drinking water made readily available
8/05/15	Improvement	96825	Section 19 WHSA, Reg 147 WHS Regulations Multiple electrical power boards in use	Problem remedied
8/05/15	Improvement	96826	Workers wearing sneakers close to plant and equipment	Boots provided
8/05/15	Improvement	96830	Removing valves from pressurised cylinders	Procedure for valve removal put in place
8/05/15	Improvement	96831	Section 19(3)(c) WHS Act	Procedure developed

8/05/15	Improvement	96832	Procedure for tipping bins by using forklift detachment not developed	See GI(m) below
8/05/15	Improvement	96833	Section 19(3)(c) WHSA and Reg 219 WHS Regulations No pre-start check	Procedure developed
11/05/15	Improvement	96806	Procedure to receive second-hand or faulty electrical items	See GI(m) below
11/05/15	Improvement	96809	Section 39 WHS Act and Reg 38 WHS Regulations Site not secured and cleaned up prior to attendance	Emergency Plan prepared and implemented
8/05/15	Prohibition	96748	Section 19 WHS Act, Reg 43 WHS Regulations Emergency Plan not prepared and implemented	Procedure to access unguarded live edge developed.
8/05/15	Prohibition	96751	Section 19 WHS Act, Reg 78 WHS Regulations Person accessing unguarded live edge within sorting shed	Cable issue fixed.
11/05/15	Prohibition	96805	Section 19 WHS Act, Reg 149 WHS Regulations Damaged electrical cable hanging from roof	Attachment rated.
			Section 19 WHS Act, Reg 219 WHS Regulations Forklift attachment not engineered / rated	

GI(g) a statement of assurance about future work health and safety behaviour

Scouts commits to SafeWork SA to discharge its obligations under the WHS Act now and in the future. This commitment is supported by the following:

- The rectifications referred to in Section GI(m) below;
- The undertakings set out in this document; and
- The Scouts WHS policy and its application.

When an alleged contravention is associated with an injury/illness

GI(h) The details of the type of workers compensation provided (if the injured person is a worker of the person)

Worker was on income maintenance following the injury. The worker received a redemption in September 2016. Work hardening was offered to the worker as part of the process but that did not occur. The worker's compensation claim is complete.

GI(i) details of the support provided to the injured person to overcome the injury/illness

The injured person is:

- an employee of the entity
- a self-employed person
- other (please specify)
- not applicable

Support provided to the injured person/s or injured person/s family:

Date	Description of support	Comment
7 May 2015	Scouts made contact with the Worker and offered any support he needed	Worker said he appreciated the contact.
8 May 2015	Contact made again and offered assistance in completing WorkCover claim. Offered to visit personally in hospital.	Worker appreciated call but said he was being discharged so visit would not be possible.
13 May 2015	Scouts representatives met with Worker to see how he was going.	Productive and positive meeting.
May to August 2015	Numerous telephone contacts checking worker wellbeing.	Some calls not answered / returned but worker thanked Scouts for contact.
Post August 2015	Scouts has been actively trying to facilitate a return to workplace for the Worker on reduced duties.	Worker has not returned to work although continues to visit the workplace from time to time to meet his colleagues.

GI(j) if the matter involves a fatality or very serious injury¹, a claim to demonstrate that exceptional circumstances exist so the WHS undertaking can be considered

Does the contravention involve a fatality or very serious injury?

Yes

No

The injured party sustained serious foot injuries as a result of the incident and required immediate hospitalisation and ongoing treatment but does not appear to meet the footnote definition.

The seriousness of the worker's injury only became known after the worker's hospitalisation.

The worker's compensation claim was closed following the acceptance of a redemption in September 2016.

The worker has not returned to work at Scouts although visits the branch regularly to redeem recyclables. It is not known whether the worker returned to work elsewhere.

GI(k) the details of any existing occupational health and safety management systems at the workplace including the level of auditing currently undertaken

Following the incident, Scouts employed a salaried WHS Manager and engaged a volunteer WHS Officer (both part time at present), whose remit is to review and update the Scouts' safety management systems, oversee and internally audit its implementation and build a proactive safety culture.

Since 2012, in response to the change in legislation, Scouts sent its senior officers including its CEO to a training session in the new legislation and has developed a new WHS framework in consultation with Business SA and SafeWork SA. WHS is now an agenda item at all Scouts' management meetings.

The Scouts' CEO has developed a detailed WHS policy under the new Act which it has amended and improved over the last few years the Act has been in force. All new (and existing) Scout Headquarters employees and all volunteer leaders complete a WHS eLearning module. All

¹ 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.

Enforceable undertakings—overview version FINAL dated December 2012, and

Enforceable undertakings—guidelines with respect to the acceptance of a WHS undertaking
version
Version 1 dated December 2012.

Section 2 – Mandatory Terms

MT(a) A commitment that the behaviour that led to the alleged contravention has ceased and will not reoccur

Scouts makes a commitment that the behaviour that led to the alleged contravention has ceased and will not re occur.

Scouts reaffirms its commitment to complying with all of its WHS obligations under the WHS Act.

MT(b) A commitment to the ongoing effective management of WHS risks

Scouts is committed to the ongoing effective management of WHS Risks.

Scouts' commitment is supported by its WHS policy, leadership from the CEO and Executive Management Team and a strengthening WHS culture throughout the organisation.

Scouts' commitment to the ongoing effective management of risk will be demonstrated by the inclusion of key WHS risk management responsibilities and accountabilities in the position descriptions of senior managers within the organisation.

MT(c) A commitment to disseminate information about the undertaking to workers, and other relevant parties, and in the annual report (if applicable)

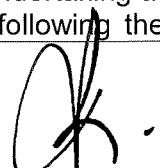
Dissemination will be achieved by implementing the following:

- This Enforceable Undertaking will be communicated to all employees and evidence will be provided that they have received the communication within 3 months after this Enforceable Undertaking is accepted by SafeWork SA.
- The CEO will share the Enforceable Undertaking nationally within Scouts at the National Risk Management Committee within 3 months after the Enforceable Undertaking is accepted by SafeWork SA.
- The General Manager Recycling Centres will present to the Recycling Association of South Australia meeting after acceptance of the Enforceable Undertaking about the Enforceable Undertaking, the Incident and learnings within 3 months after this Enforceable Undertaking is accepted by SafeWork SA.
- Scouts will do a feature article in its magazine about WHS including detailing the Enforceable Undertaking, the Incident and learnings from the same within 3 months after this Enforceable Undertaking is accepted by SafeWork SA.
- Scouts will mention the Enforceable Undertaking in its next annual report after the Enforceable Undertaking is accepted and provide a link to its website for more information.

MT(d) A commitment to participate constructively in all compliance monitoring activities of the undertaking

It is acknowledged that SafeWork SA will conduct compliance monitoring to ensure compliance with the terms of this Enforceable Undertaking.

Scouts will provide SafeWork SA with evidence of compliance with this Enforceable Undertaking at 6 monthly intervals, until all of the mandatory terms are complete, within 1 month following the



completion of each 6 month interval (for instance, within 7 months after this Enforceable Undertaking is accepted and executed by SafeWork SA (in respect of the first 6 months)).

It is acknowledged that SafeWork SA may initiate additional compliance inspections as considered necessary at the regulator's expense.

MT(e) Strategies that will deliver worker benefits

Scouts' strategy to deliver worker benefits includes the following:

- Maintain increased WHS Manager to Full Time to provide continuous WHS support through the business - \$127,000 per annum plus on costs (40% of this salary (\$50,800) plus on costs is the additional cost of this strategy) – ongoing.
- Implementing a WHS Management System in respect of all Scouts commercial sites – cost \$10,000 first year and \$8,000 to \$10,000 per annum thereafter – to be implemented within 12 months of acceptance of Enforceable Undertaking.
- Putting 4 key staff through Certificate IV Health and Safety Training within 12 months of acceptance of Enforceable Undertaking – cost \$4,000 plus staff time.
- Implementation of annual independent audit by Business SA = \$15,000 per annum to commence within 2 months of acceptance of Enforceable Undertaking.
- Senior management (including CEO) to conduct regular spot checks personally to demonstrate management commitment to WHS – ongoing.
- Audit rectification actions - \$20,000 – within periods set out below after audits completed.
- CEO to monitor compliance with Enforceable Undertaking in conjunction with Chief Commissioner. This will occur through reports from the Risk and Compliance Manager to the CEO and then to the Board at least once every two months.

Total per annum costs = \$95,000 plus ad hoc costs as also set out above.

Timing – all strategies to be commenced within 3 months of acceptance of this Enforceable Undertaking and ongoing.

MT(f) Strategies that will deliver industry benefits

Scouts will engage with industry to deliver industry benefits in the form of:

- The General Manager Recycling Centres will present to the Recycling Association of South Australia at its next meeting after acceptance of the Enforceable Undertaking about the Enforceable Undertaking, the Incident and learnings. A summary of this presentation shall be made available on the Scouts' website within 28 days of the presentation. There will be a link to this in the next annual report.
- CEO to present a case study at next meeting of National and State Board Chairs and Commissioners – already occurred.
- Scouts undertakes to participate in a forum conducted during Safe Work Month in 2017 (if the Enforceable Undertaking is accepted by this time, otherwise in Safe Work Month 2018) or to participate in a presentation at another time agreed with SafeWork SA, by providing a speaker to detail Scouts' experience in relation to the SafeWork SA undertakings process and the benefits of entering such.
- Scouts undertakes to prepare, within one month of the Enforceable Undertaking being accepted by SafeWork SA, an Incident Summary, using the template provided to it by SafeWork SA, which provides an overview of the workplace, describes the incident (what happened and who was involved), identifies the probable causes of / contributing factors to how the incident happened, and the corrective action(s) taken to rectify the issues and improve work health and safety.
- Scouts to take a quarter page advertisement in National Inside Waste Magazine referring to

the incident and referring to web link for details. To be in the October 2017 issue or next available issue after that.

Costs – costs for staff developing material, \$1,800 for advertisement.

Timing – as set out about or otherwise within 12 months of acceptance of the Enforceable Undertaking.

MT(g) Strategies that will deliver community benefits

- Conducting 2 presentations about safety during Safe Work Month for the community generally at Scout Headquarters.
- The presentations will go through the Scouts incident and lessons learned from it and the importance of safety generally.
- The sessions will be open to all members of the community and advertised through Scouts networks.
- 2 sessions to be presented to High Schools on safety.

Costs – costs for staff developing material.

Timing – to be implemented within 12 months of acceptance of the Enforceable Undertaking.

MT(h) Agreement to pay the regulators costs

Agreement is given to paying the regulator's costs associated with the Enforceable Undertaking, as itemised below, and acknowledgment that payment is due 30 days after receipt of the regulator's invoice:

• investigation, legal and administrative costs associated with the alleged contravention and proposed undertaking	\$2,500
• compliance monitoring costs	\$0
• publication costs	\$0
Total amount	\$2,500

Where appropriate

MT(i) A commitment to establish and maintain (or maintain if a system already exists) an occupational health and safety management system (OHSMS)

Scouts commits to developing and implementing an AS/NZS 4801:2001 Occupational health and safety management systems – Specification with guidance for use, systems plan based on the findings of its initial independent audit. The development of this plan to occur within 2 months of receipt of the relevant audit report.

MT(j) A commitment to ensure the OHSMS is audited by third party auditors

Scouts will engage Business SA to externally audit its commercial business within 3 months of acceptance of this Enforceable Undertaking and then at least on 2 further occasions at 12 month intervals after the first audit. Details of the auditors' qualifications against the stated requirements will be provided with audit reports submitted to SafeWork SA.

MT(k) A commitment to provide a copy of each finalised OHSMS audit report to the regulator

Scouts commits to:

- providing the regulator with the finalised audit report for each audit to the regulator along with a letter certifying that the report has not been altered from the copy provided by the OHSMS Auditor within 30 days of receiving the audit report from the auditor.
- providing the regulator with information on how Scouts intends to address each of the

report's recommendations. This information is to be forwarded within 30 days of receipt of the written report from the auditor, accompanied by any requests for exemption or consideration of alteration to the recommendations or timeframes, and

- reports arising from the OHSMS audits along with a copy of the rectification / action plan will be delivered to: Chief Inspector, SafeWork SA, GPO Box 465 Adelaide 5001

MT(l) A commitment to implement the recommendations from these audits (unless otherwise negotiated with the regulator)

The recommendations resulting from the WHS audit will be fully implemented within six months of receiving the audit report, unless the regulator offers a variation of the Enforceable Undertaking due to the actions being unreasonable.



Section 3 - Offer of undertaking

I offer this undertaking and commit to the terms herein.

Signed:

[Person]

Dan Ryan
[Print name]

Chief Executive Officer
[Position]

Dated at 17th this
..... day of October, 2017

OR

As a duly authorised person of *[insert person]* I offer this undertaking and commit *[insert person]* to the terms herein.

Signed:

[Duly authorised person]

.....
[Print name]

.....
[Position]

Dated at this
..... day of, 20.....

Section 4 - Departmental acceptance of undertaking

I accept this undertaking as an enforceable undertaking under section 216 of the *Work Health and Safety Act 2012 SA*.

Signed:

MARTYN CAMPBELL
[Print name]

Position, and Regulator's Name

Dated at 18th this day of OCTOBER, 2017